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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket No. FV-89-200]

Pineapples; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises the voluntary U.S. Standards for Grades of Pineapples. This revision will bring the standards in line with current cultural and marketing practices. The Agricultural Marketing Service (AMS), has the responsibility to develop and improve standards of quality, grade, and packaging in order to encourage uniformity and consistency in commercial practices.

EFFECTIVE DATE: July 5, 1990.

FOR FURTHER INFORMATION CONTACT: Philip C. Eastman, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2482.

SUPPLEMENTARY INFORMATION: This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This revision of the U.S. Standards for Grades of Pineapples will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. This action revises the U.S. Standards for Grades of Pineapples which will bring the standards into conformity with current marketing practices. In addition, under the Agricultural Marketing Act of 1946, the application of these standards is voluntary.

The United States Standards for Grades of Pineapples were last published on February 23, 1953. The standards are issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.). The Pineapple Growers Association of Hawaii requested modifications in the U.S. standards that include the following changes in requirements for the grades and definitions of terms, new terms and definitions, as well as changes and additions in the scoring limits for defects. This Association represents growers and shippers that distribute approximately 84 percent of the pineapples consumed in the United States. A proposed rule was published in the Federal Register on July 28, 1989 (54 FR 31338) which proposed the following changes to the standards.

Proposed Changes in Requirements

—The current standards apply only to pineapples with tops, while the proposed standards would apply to pineapples with or without tops. This change in the requirements would allow pineapples whose tops have been cut off to be graded and certified to a U.S. grade.

—The current U.S. Fancy and U.S. No. 1 grades require the tops to be straight and reasonably straight respectively, while in the proposed standards the tops would be required to be moderately straight or not more than moderately curved respectively. These changes in straightness requirements would be more in line with what is now commonly accepted in the marketplace and allow more pineapples to meet either the requirements of the U.S. Fancy or U.S. No. 1 grade.

—The U.S. Fancy grade in the current standards requires tops to be not less than 5 inches nor more than 1½ times the length of the fruit. The U.S. No. 1 grade in the current standards requires tops to be not less than 4 inches nor more than twice the length of the fruit. With current cultural and marketing practices, excessively short tops have not been a significant factor affecting sales of pineapples. The elimination of minimum top length will permit pineapples with tops removed to be graded and certified under the proposed standards.

—In the current standards, fresh cracks and evidence of rodent feeding are scored on the general definitions of damage and/or serious damage. The proposed standards would require that each grade be free from these defects.

—The current standards make no reference to overripe, freezing, or decay of the tops. The proposed standards would make these "free from" defects. Overripe, freezing, and decay in the tops of pineapples are considered by the pineapple industry to be serious disorders, therefore any amount that is visible would be a defect in the proposed standards.

—Internal breakdown is currently scored when present in any degree. The pineapple industry feels this is too restrictive and has requested that the proposed standards provide specific areas of the pineapple flesh which might be light to medium brown without being scored as a defect. This change was included in the proposal.

Proposed Changes in Definition of Terms

—In the current standards "Mature" is defined as the stage of development which will ensure completion of the ripening process, while the proposed standards redefine it to mean a stage of development where a pineapple is usable and edible. This change is a more easily understood definition for mature, and indicates pineapples which meet U.S. grade standards must be palatable.

—"Well trimmed" in the current standards means the stem has been cut off so the fruit will stand straight on a flat surface. In the proposed standards, the term has been changed to "Stems removed" which means the stem is removed so it does not extend more than one inch below the base of the pineapple. The term and definition were changed in the proposed standards to be more in line with what is currently accepted practice in marketing pineapples.

—"Similar varietal characteristic color" for tops in the current standards means that at shipping point the tops are of good green color, and in receiving markets they are fairly good green color and relatively free from dryness and discoloration. Because of the variation in natural color that sometimes develops in the tops of pineapples, the proposed standards would redefine similar varietal characteristic color of tops to mean that the tops in a lot may vary from green to reddish green color. Since there would be specific scoring limits in the Classification of Defects, the proposed standards would not make reference to an allowable degree of discoloration.

—In the current standards, "Fairly uniform" size is defined for counts of 18 or less in standard southeastern crates as a variation of not more than ⅝ inch in diameter and for counts over 18 in number the pineapples may not vary more than ½ inch in diameter. In recent years, however, southeastern crates have fallen into disuse. For this reason and to provide a simpler way to establish fairly uniform size, the proposed standards redefined "Fairly uniform" to mean that the fruit within individual containers do not vary more than 1½ pounds from smallest to largest.

Proposed New Terms and Definitions

The following terms and accompanying definitions were included in the proposed standards because they are used in the grading and certification of pineapples.

—"Frozen (fruit)" means the fruit is affected by freezing so that some portion is in a hardened state with ice crystals present.

—"Frozen (tops)" means the tops are to some degree, hardened by freezing with ice crystals present.

—"Freezing injury (fruit)" means the edible flesh is glassy, watersoaked, and/or discolored as is characteristic of having been frozen.

—"Freezing injury (tops)" means the leaf tissue is glassy, watersoaked, and/or discolored as is characteristic of having been frozen.

—"Shell" means the external surface or rind of the fruit.

—"Flesh" means the internal edible portion of the fruit.

—"Decay" means breakdown or disintegration of the tops or breakdown, disintegration or fermentation of the pineapple caused by bacteria or fungi.

Proposed Tolerances—Changes in the Method for Determining the Amount of Defects Allowed for Samples and Lots

In the current standards a percentage is used for the amount of defects in the individual samples, as well as for a lot of pineapples as a whole. The proposed standards would use limits that are based on the number of fruit in a chart. This method would be easier and faster to utilize in grading pineapples, in that there is no need to make calculations as with percentages. Generally, the proposed tolerances are similar to those in the current standards.

Proposed Size and Marking Requirements

The proposed standards would not change the size and marking requirements in the current standards.

Proposed Changes in Scoring Limits in the Classification of Defects

Changes in the proposed standards included the addition of specific definitions for scoring defects where the current standards has only a general definition for injury, damage, and serious damage. There were also changes in the scoring limits in the proposal which are more specific than those in the current standards.

CHANGES IN LIMITS FOR DEFECTS,[1] INJURY (U.S. FANCY)

Tops	Current standards	Proposed standards
Discoloration	Shipping points, the tops are of good green color characteristic of well-grown pineapples, and in the receiving markets, are fairly good green color and relatively free from dryness and discoloration.	When more than 10 percent of the crown leaves are discolored.
Mechanical or other means	No specific limit in standards [2]	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance of the pineapple.
Fruit:		
Bruising	No specific limit in standards [2]	When any bruise exends into flesh more than ¼ inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 1½ inches in diameter.
Sunburn	More than slightly affecting appearance	When there is bleaching and a slight softening of the shell affecting an aggregate area more than 1½ inches in diameter.
Gummosis	More than very slight	When gum deposits penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than ¼ inch in diameter.
Internal breakdown	No specific limit in standards [2]	When more than 5 percent of the edible flesh has a distinct light brown to medium brown discoloration which more than slightly detracts from the appearance or edible quality of the fruit.
Insects and insect feeding	No specific limit in standards [2]	When an aggregate area more than ½ inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which more than slightly detracts from the apperance, edible, or shipping quality of the fruit.
Healed cracks	No specific limit in standards [2]	When healed cracks more than slightly detract from the appearance, edible, or shipping quality of the fruit.
Mechanical or other means	No specific limit in standards [2]	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance or edible quality of the pineapple.

[1] Defects are based on a 10 size fruit (ten 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

[2] However, can apply the general definition limit for "injury" which means any defect which more than slightly affects the appearance or the edible or shipping quality of the fruit.

CHANGES IN LIMITS FOR DEFECTS [1] DAMAGE (U.S. NO. 1)

Tops	Current standards	Proposed standards
Discoloration	Shipping points, the tops are of good green color characteristic of well-grown pineapples, and in the receiving markets, are fairly good green color and relatively free from dryness and discoloration.	When more than 25 percent of the crown leaves are discolored.
Crown slips	Not more than 5 crown slips, not more than 2 of which may be more than 2¾ inches in length.	When more than 5 crown slips, or when more than 2 crown slips are more than 2-¾ inches in length.
Mechanical or other means	No specific limit in standards [2]	When physical injury (cleanliness, mechanical damage) materially affects the appearance of the pineapple.
Fruit:		
Bruising	No specific limit in standards [2]	When any bruise extends into flesh more than ½ inch, and when a bruise or combination of bruises affects an aggregate area more than 2-¼ inches in diameter.
Sunburn	No specific limit in standards [2]	When there is bleaching and a moderate softening of the shell affecting an aggregate area more than 2-¼ inches in diameter.
Gummosis	No specific limit in standards [2]	When gum deposits slightly penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than ½ inch in diameter.
Internal breakdown	No specific limit in standards [2]	When more than 10 percent of the edible flesh has a light to medium brown discolorstion which materially detracts from the appearance or edible quality of the fruit.
Insects and insect feeding	No specific limit in standards [2]	When an aggregate area more than ¾ inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which materially detracts from the appearance, edible, or shipping quality of the fruit.
Healed cracks	Not badly cracked	When healed cracks on the eyes are more than ¼ inch in width and not more than 1 inch in depth or which materially detracts from the appearance, edible, or shipping quality of the fruit.
		When healed cracks between the eyes materially affect the appearance of the fruit shell.
Mechanical or other means	No specific limit in standards [2]	When physical injury (cleanliness, mechanical damage) materially affects the appearance or edible quality of the pineapple.

[1] Defects are based on a 10 size fruit (ten 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

[2] However, can apply the general definition limit for "Damage" which means any defect which materially affects the appearance, or the edible or shipping quality of the fruit.

CHANGES IN LIMITS FOR DEFECTS,[1] SERIOUS DAMAGE (U.S. NO. 2)

Tops	Current standards	Proposed standards
Discoloration	Shipping points, the tops are of good green color characteristic of well-grown pineapples, and in the receiving markets, are fairly good green color and relatively free from dryness and discoloration.	When more than 50 percent of the crown leaves are discolored.
Mechanical or other means	No specific limit in standards [2]	When physical injury (cleanliness, mechanical damage) seriously affects the appearance of the pineapple.
Fruit:		
Bruising	No specific limit in standards [2]	When any bruise extends into flesh more than ¾ inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 3 inches in diameter.
Sunburn	No specific limit in standards [2]	When there is bleaching and severe softening of the shell affecting an aggregate area more than 3 inches in diameter.
Gummosis	No specific limit in standards [2]	When gum deposits readily penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than 1 inch in diameter.
Internal breakdown	No specific limit in standards [2]	When more than 20 percent of the edible flesh has a distinct medium dark brown or brown-black discoloration which seriously detracts from the appearance or edible quality of the fruit.
Insects and insect feeding	No specific limit in standards [2]	When an aggregate area more than 1 inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding which seriously detracts from the appearance, edible, or shipping quality of the fruit.
Healed cracks	No specific limit in standards [2]	When healed cracks on the eyes are more than ½ inch in width or more than 1 inch in depth or which seriously detract from the appearance, edible, or shipping quality of the fruit.
		When healed cracks between the eyes seriously affect the appearance of the fruit shell.

CHANGES IN LIMITS FOR DEFECTS,[1] SERIOUS DAMAGE (U.S. No. 2)—Continued

Tops	Current standards	Proposed standards
Mechanical or other means	No specific limit in standards [2]	When physical injury (cleanliness, mechanical damage) seriously affects the appearance or edible quality of the pineapple.

[1] Defects are based on a 10 size fruit (ten 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

[2] However, can apply the general definition limit or "Serious Damage" which means any defect which seriously affects the appearance, or the edible or shipping quality of the fruit.

Proposed Grade Standards Format Changes

The current standards are organized to contain provisions for grades, unclassified pineapples, application of tolerances, size and marking requirements and definitions. The proposed standards would provide for an updated format for the standards to reflect current formatting and organization for fresh commodity standards.

Response to Comments

The proposed rule was published in the **Federal Register** on July 28, 1989 (54 FR 31338). The 60-day comment period ended September 26, 1989, and two letters were received with comments concerning the proposal.

Both letters were generally in favor of the proposal to revise the current standards, but suggested some possible changes before making it a final rule.

The first letter was from a wholesale produce distributor who felt that the defect "Internal Breakdown" should be a "free from" defect. "Free from" means that any recognizable amount of a condition is considered a defect. A requirement that graded pineapples be free from Internal Breakdown was thoroughly discussed with the pineapple industry prior to the proposal. It was determined from a broad base of opinions that "free from" would be too restrictive. AMS determined the areas of 5, 10 and 20 percent of the edible flesh were acceptable before Internal Breakdown would be a defect for the U.S. Fancy, U.S. No. 1 and U.S. No. 2 grades respectively. Consequently the suggestion to make Internal Breakdown a "free from" defect is not considered to be appropriate and was not included in the final rule.

The second letter contained a number of comments from the Pineapple Growers Association of Hawaii. The first point the Association made was to call attention to several typographical errors made in the proposed rule. They were correct in that all were typographical errors, except for the definition of "Shipping Point" in Table I. The Association felt that the definition should have read "at port of loading *or* ship stores," when it was correct as typed, "loading *for* ship stores."

The second point the Association made was that an addition should be made to the proposed definition for "mature." They suggested including "Mature, but not overripe, * * *" This is not necessary because "free from overripe" is a requirement of each grade in the proposal. They expressed that "very" be added in front of the word "soft" in the definition of "Overripe." This comment is not incorporated in the final rule because any degree of soft in the pineapple fruit is considered overripe.

The third point made by the Association was that the word "hard" should be deleted from the definition of "shell." AMS considers this suggestion appropriate and useful since there are some types of pineapples that do not truly have a "hard" shell. Thus, AMS deleted "hard" from § 51.1502 of the final rule.

The fourth suggestion made by the Association was that the definition for Internal Breakdown should be modified by deleting "or" and adding "and" between watersoaked and brown. This comment has not been incorporated in the final rule because throughout the pineapple industry any watersoaking *or* degree of discoloration associated with Internal Breakdown is considered a defect.

The fifth Association comment concerned the defect Gummosis in the Classification of Defects Chart. They felt that "slightly" should be added before "penetrate" under Injury and delete "slightly" under Damage. This is to indicate that "slightly penetrate" is less severe than "penetrate" in Injury and Damage respectively. AMS disagrees because "penetrate" indicates any small depth of injury. However, "slightly penetrate" has traditionally meant a greater depth of Gummosis into the pineapple flesh. As a result, this suggestion was not incorporated in the final rule.

The final Association response is related to proposed definitions for Damage and Serious Damage by Healed Cracks. The proposal defined Damage as "more than ¼ inch in width and not more than 1 inch in depth" and Serious Damage as "more than ½ inch in width or more than 1 inch in depth." The Association suggested the following revised definitions, Damage, "more than ½ inch in width and not more than ½ inch in depth" and Serious Damage, "more than ¾ inch in width and not more than ¾ inch in depth." After a careful review of the disorder of Healed Cracks AMS determined that they more readily affect the surface area of the pineapple or width of the eyes as opposed to the depth. For this reason the Association's suggested revised definitions for Damage and Serious Damage by Healed Cracks was incorporated into the final rule.

The Agricultural Marketing Service (AMS), has the responsibility to develop and improve standards of quality, condition, grade, and packaging in order to encourage uniformity and consistency in commercial practices. The Agency has determined this final rule will enhance the marketing of pineapples and encourage uniformity and consistency in commercial practices. The provisions of this final rule are the same as those in the proposed rule, except for the changes noted above in response to the comments received and except for several minor changes made for clarity.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 be amended as follows:

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended: 7 U.S.C. 1622, 1624, unless otherwise noted.

2. The subpart—United States Standards for Grades of Pineapples is revised to read as follows:

Subpart—United States Standards for Grades of Pineapples

General

Sec.
51.1485 General.

Grades

51.1486 U.S. Fancy.
51.1487 U.S. No. 1.
51.1488 U.S. No. 2.

Tolerances

51.1489 Tolerances.

Size and Marking Requirements

51.1490 Size and marking requirements.

Definitions

51.1491 Similar varietal characteristics.
51.1492 Mature.
51.1493 Overripe.
51.1494 Stems removed.
51.1495 Well formed.
51.1496 Fairly well formed.
51.1497 Fairly uniform in size.
51.1498 Freezing injury or frozen (fruit).
51.1499 Freezing injury or frozen (tops).
51.1500 Single top.
51.1501 Crown slips.
51.1502 Shell.
51.1503 Flesh.
51.1504 Similar varietal characteristic color for tops.
51.1505 Decay.
51.1506 Internal breakdown.
51.1507 Injury.
51.1508 Damage.
51.1509 Serious damage.

Classification of Defects

51.1510 Classification of defects.

Subpart—United States Standards for Grades of Pineapples

General

§ 51.1485 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State Laws.

(b) These standards are applicable to fresh pineapples with or without tops provided that pineapples with tops attached or with tops removed may not be commingled in the same container.

Grades

§ 51.1486 U.S. Fancy.

(a) "U.S. Fancy" consists of pineapples which meet the following requirements:

(1) Basic requirements for fruit:
(i) Similar varietal characteristics;
(ii) Mature;
(iii) Well formed; and,
(iv) Stems removed.
(2) Basic requirements for tops:
(i) Similar varietal characteristic color;
(ii) Single stem;
(iii) Moderately straight;
(iv) Well attached to fruit; and,
(v) Not more than 1½ times the length of the fruit.
(3) Fruit free from:
(i) Fresh cracks;
(ii) Evidence of rodent feeding;
(iii) Freezing injury or frozen;
(iv) Overripe; and,
(v) Decay.
(4) Tops free from:
(i) Crown slips;
(ii) Freezing injury or frozen; and,
(iii) Decay.
(5) Fruit free from injury by:
(i) Bruising;
(ii) Sunburn;
(iii) Gummosis;
(iv) Internal breakdown;
(v) Insects;
(vi) Healed cracks; and,
(vii) Mechanical or other means.
(6) Tops free from injury by:
(i) Discoloration; and,
(ii) Insects.
(7) Tolerances. (See § 51.1489)

§ 51.1487 U.S. No. 1.

(a) "U.S. No. 1" consists of pineapples which meet the following requirements:

(1) Basic requirements for fruit:
(i) Similar varietal characteristics;
(ii) Mature;
(iii) Well formed; and,
(iv) Stems removed.
(2) Basic requirements for tops:
(i) Similar varietal characteristic color;
(ii) Single stem;
(iii) Not more than moderately curved;
(iv) Well attached to fruit; and,
(v) Not more than twice the length of the fruit.
(3) Fruit free from:
(i) Fresh cracks;
(ii) Evidence of rodent feeding;
(iii) Freezing injury or frozen;
(iv) Overripe; and,
(v) Decay.
(4) Tops free from:
(i) Freezing injury or frozen; and,
(ii) Decay.
(5) Fruit free from damage by:
(i) Bruising;
(ii) Sunburn;
(iii) Gummosis;
(iv) Internal breakdown;
(v) Insects;
(vi) Healed cracks; and,
(vii) Mechanical or other means.
(6) Tops free from damage by:
(i) Discoloration;
(ii) Crown slips; and,
(iii) Insects.
(7) Tolerances. (See § 51.1489)

§ 51.1488 U.S. No. 2.

(a) "U.S. No. 2" consists of pineapples which meet the following requirements:

(1) Basic requirements for fruit:
(i) Similar varietal characteristics;
(ii) Mature; and,
(iii) Fairly well formed.
(2) Basic requirements for tops:
(i) Similar varietal characteristic color;
(ii) Well attached to fruit;
(iii) Not completely curved over; and,
(iv) Not more than two fairly well developed stems.
(3) Fruit free from:
(i) Fresh cracks;
(ii) Evidence of rodent feeding;
(iii) Freezing injury or frozen;
(iv) Overripe; and,
(v) Decay.
(4) Tops free from:
(i) Freezing injury or frozen; and,
(ii) Decay.
(5) Fruit free from serious damage by:
(i) Bruising;
(ii) Sunburn;
(iii) Gummosis;
(iv) Internal breakdown;
(v) Insects;
(vi) Healed cracks; and,
(vii) Mechanical or other means.
(6) Tops free from serious damage by:
(i) Discoloration; and,
(ii) Insects.
(7) Tolerances. (See § 51.1489)

Tolerances

§ 51.1489 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective specimens in the individual sample, and the number of defective specimens in the lot shall be within the limitations specified in Tables I and II.

TABLE I.—SHIPPING POINT [1]

Number of 25-Count Samples [3]

Factor	Grades	AL [2]	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
Decay	All	1	0	0 [4]	1	1	1 [4]	2	2	2 [4]	3	3	3	3	3	3 [4]	4	4	4	4	4	4 [4]	5	5	5	5	5
Damage, serious damage (including decay).	U.S. Fancy, U.S. No. 1.	4	3	4	5	7	8	9	10	11	12	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
Total defects including injury, damage, serious damage, and decay.	All	6	4	7	10	13	15	18	20	22	25	27	29	32	34	36	39	41	43	45	48	50	52	54	57	59	61
			26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50
Decay	All	1	[4] 5	6	6	6	6	6	[4] 6	7	7	7	7	7	7	7	[4] 7	8	8	8	8	8	8	[4] 8	9	9	[4] 9
Damage, serious damage (including decay).	U.S. Fancy, U.S. No. 1.	4	30	31	32	34	35	36	37	38	39	40	41	42	43	44	45	46	46	47	48	49	50	51	52	53	54
Total defects including injury, damage, serious damage, and decay.	All	6	63	65	68	70	72	74	76	79	81	83	85	87	90	92	94	96	98	100	103	105	107	109	111	113	116

[1] Shipping point as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.
[2] AL—Absolute limit permitted in individual 25-count sample.
[3] Sample size—25 count.
[4] Preferred number of samples for this acceptance number.

TABLE II.—EN ROUTE OR AT DESTINATION*

The number of samples examined shall correspond to the number of containers in the lot shown in chart (a). The total number of defects may not exceed that shown for the total number of fruit examined in chart (b).

Chart (a)

Number of containers in the lot	1 to 150	151 to 300	301 to 750	751 to 1200	1201 or more
Number of 25 count samples examined	2	4	6	8	10

Chart (b)

Factor	Grades	Absolute limit	Number of 25 count samples				
			2	4	6	8	10
Decay	All	2	1	3	4	4	5
Damage (U.S. Fancy) or serious damage (U.S. No. 1) by permanent defects, excluding decay.	U.S. Fancy, U.S. No. 1	4	4	7	9	11	14
Total damage (U.S. Fancy) or serious damage (U.S. No. 1) including decay.	U.S. Fancy, U.S. No. 1	4	4	7	10	13	15
Total permanent defects	All	6	7	13	18	22	27
Total defects	All	7	8	14	19	25	30
Total number fruit examined			50	100	150	200	25

*En Route or at destination means any point other than shipping point as described on Page 25. Table I. Footnote 1. Shipping Point.

Size and Marking Requirements

§ 51.1490 Size and marking requirements.

(a) The pineapples in each container shall be fairly uniform in size and the count shall be plainly stamped, stenciled, or otherwise marked on the container.

(b) In order to allow for variations incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements pertaining to size and marking.

Definitions

§ 51.1491 Similar varietal characteristics.

Similar varietal characteristics means the pineapples in any lot are similar in type and character of growth.

§ 51.1492 Mature.

Mature means the pineapple has reached the stage of development where ripening has progressed to a degree where the fruit is usable and edible.

§ 51.1493 Overripe.

Overripe means the fruit is soft and past commercial utility.

§ 51.1494 Stems removed.

Stems removed means the stem at the base of the fruit has been removed so that it does not extend more than one inch beyond the outermost bottom portion of the butt of the fruit.

§ 51.1495 Well formed.

Well formed means the fruit shows good shoulder development and is not lopsided or distinctly pointed, and that the sides are not noticeably flattened.

§ 51.1496 Fairly well formed.

Fairly well formed means the fruit is not excessively lopsided, or exessively flattened at the shoulders or sides.

§ 51.1497 Fairly uniform in size.

Fairly uniform in size means the weight of the fruit within individual containers does not vary more than 1½ pounds from smallest to largest.

§ 51.1498 Freezing injury or frozen (fruit).

Freezing injury (fruit) means the edible flesh is glassy, watersoaked, and/or discolored characteristic of having been frozen.

Frozen (fruit) means the fruit is affected by freezing so that some portion is in a hardened state with ice crystals present.

§ 51.1499 Freezing injury or frozen (tops).

Freezing injury (tops) means the leaf tissue is glassy, watersoaked, and/or discolored as is characteristic of having been frozen.

Frozen (tops) means the tops are to some degree, hardened by freezing with ice crystals present.

§ 51.1500 Single top.

Single top means the fruit has only one prominent main stem at the crown of the fruit.

§ 51.1501 Crown slips.

Crown slips means the small secondary top growths at the crown of the fruit.

§ 51.1502 Shell.

Shell means the external surface or rind of the fruit.

§ 51.1503 Flesh.

Flesh means the internal edible portion of the fruit.

§ 51.1504 Similar varietal characteristic color for tops.

Similar varietal characteristic color for tops means the tops in a lot may vary from a characteristic green to reddish-green color.

§ 51.1505 Decay.

Decay means breakdown or disintegration of the tops or breakdown, disintegration or fermentation of the pineapple caused by bacteria or fungi.

§ 51.1506 Internal breakdown.

Internal breakdown means a physiological deterioration which results in a watersoaked or brown or blackish discoloration.

§ 51.1507 Injury.

Injury means any defect listed in the Classification of Defects section or any other defect or combination of defects which more than slightly detracts from the appearance, edible, or shipping quality of the fruit.

§ 51.1508 Damage.

Damage means any defect listed in the Classification of Defects section or any other defect or combination of defects which materially detracts from the appearance, edible, or shipping quality of the fruit.

§ 51.1509 Serious damage.

Serious damage means any defect listed in the Classification of Defects section or any other defect or combination of defects which seriously detracts from the appearance, edible, or shipping quality of the fruit.

Classification of Defects

§ 51.1510 Classification of defects.[1]

Defects	Injury	Damage	Serious damage
Tops:			
Discoloration	When more than 10 percent of the crown leaves are discolored.	When more than 25 percent of the crown leaves are discolored.	When more than 50 percent of the crown leaves are discolored.
Crown slips	Free from	When more than 5 crown slips or when more than 2 are over 2-¾ inches in length.	
Mechanical or other means.	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance of the pineapple.	When physical injury (cleanliness, mechanical damage) materially affects the appearance of the pineapple.	When physical injury (cleanliness, mechanical damage) seriously affects the appearance of the pineapple.
Fruit:			
Bruising	When any bruise extends into flesh more than ¼ inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 1-½ inches in diameter.	When any bruise extends into flesh more than ½ inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 2-¼ inches in diameter.	When any bruise extends into flesh more than 3/4 inch and when a bruise or combination of bruises affects an aggregate area of a circle more than 3 inches in diameter.
Sunburn	When there is bleaching and a slight softening of the shell affecting an aggregate area more than 1-½ inches in diameter.	When there is bleaching and a moderate softening of the shell affecting an aggregate area more than 2-¼ inches in diameter.	When there is bleaching and severe softening of the shell affecting an aggregate area more than 3 inches in diameter.
Gummosis	When gum deposits penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than ¼ inch in diameter.	When gum deposits slightly penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than ½ inch in diameter.	When gum deposits readily penetrate into the flesh or causes discoloration of the shell affecting an aggregate area more than 1 inch in diameter.
Internal breakdown	When more than 5 percent of the edible flesh has a distinct light brown to medium brown discoloration which more than slightly detracts from the appearance or edible quality of the fruit.	When more than 10 percent of the edible flesh has a light to medium brown discoloration which materially detracts from the appearance or edible quality of the fruit.	When more than 20 percent of the edible flesh has a distinct medium to dark brown or brown-black discoloration which seriously detracts from the appearance or edible quality of the fruit.

Defects	Injury	Damage	Serious damage
Insects and insect feeding.	When an aggregate area more than ½ inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which more than slightly detracts from the appearance, edible, or shipping quality of the fruit.	When an aggregate area more than ¾ inch in diameter has any insects attached to the surface (e.g. scale) or any injury from insect feeding, which materially detracts from the appearance, edible, or shipping quality of the fruit.	When an aggregate area more than 1 inch in diameter has any insects attsched to the surface (e.g. scale) or any injury from insect feeding which seriously detracts from the appearance, edible, or shipping quality of the fruit.
Healed cracks.....	When healed cracks more than slightly detract from the appearance, edible, or shipping quality of the fruit.	When healed cracks on the eyes are more than ½ inch in width and not more than ½ inch in depth or which materially detract from the appearance, edible, or shipping quality of the fruit. When healed cracks between the eyes materially affect the appearance of the fruit shell.	When healed cracks on the eyes are more than ¾ inch in width and not more than ¾ inch in depth or which seriously detract from the appearance, edible, or shipping quality of the fruit. When healed cracks between the eyes seriously affect appearance of the fruit shell.
Mechanical or other means.	When physical injury (cleanliness, mechanical damage) more than slightly affects the appearance or edible quality of the pineapple.	When physical injury (cleanliness, mechanical damage) materially affects the appearance or edible quality of the pineapple.	When physical injury (cleanliness, mechanical damage) seriously affects the appearance or edible quality of the pineapple.

[1] Classification of Defects is based on a 10 size fruit (ten, 4-pound average fruit per 40 pound box). Accordingly larger or smaller fruit are permitted to have defects relative to their size.

Dated: May 30, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-12879 Filed 6-1-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 51

[Docket No. FV-88-204]

Snap Beans; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises the voluntary U.S. Standards for Grades of Snap Beans. The State of Florida produces approximately 80 percent of the snap beans marketed nationally. The South Florida Vegetable Exchange (the Exchange), which represents the majority of snap bean growers in South Florida, had requested the standards be revised to bring them into conformity with current cultural, harvesting, and marketing practices. The Agricultural Marketing Service (AMS) has the responsibility to develop and improve standards of quality, condition, quantity, grade, and packaging in order to encourage uniformity and consistency in commercial practices. The revisions to the standards made in this final rule will enhance the marketing of snap beans and better reflect modern growing and harvesting techniques.

EFFECTIVE DATE: July 5, 1990.

FOR FURTHER INFORMATION CONTACT: Paul W. Manol, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-5410.

SUPPLEMENTARY INFORMATION: This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities. This revision of the U.S. standards for snap beans will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. This action revises the U.S. Standards for Grades of Snap Beans which brings the standards into conformity with current marketing practices. In addition, under the Agricultural Marketing Act of 1946, the application of these standards is voluntary.

The United States Standards for Grades of Snap Beans were last revised on August 1, 1936. The standards are covered under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et. seq.). The proposal to revise the U.S. Standards for Grades of Snap Beans (7 CFR 51.3830-51.3844) was published in the **Federal Register** on March 8, 1989 (54 FR 9824-9825), and invited interested persons to submit written comments. The proposal was developed at the request of the South Florida Vegetable Exchange, which represents the majority of snap bean growers in South Florida. It was their contention that the revisions were necessary to reflect current cultural, harvesting, and marketing practices. From the 36 comments received in response to the request for comments, the Agency believed that some misunderstanding and confusion existed within industry pertaining to the proposed increase in the tolerances for broken beans and the scoring of same. Six of the comments, received from growers, shippers, and retailers of snap beans, were in opposition to the proposal. They felt that any increase in the tolerance for broken beans was unacceptable.

After careful analysis, the Agency decided to publish a modified proposed rule that would clarify the proposal and establish definitions for both damage and serious damage by broken beans, which were not included in the original proposal. On October 11, 1989, a modified proposal to revise the U.S. Standards for Grades of Snap Beans (7 CFR 51.3830-51.3844) was published in the **Federal Register** (54 FR 41599-41601), and invited interested persons to submit written comments.

The following changes were proposed to the standards in both the original and modified proposals:

—A general section would be added specifying the types of beans covered by the standard. Although the current standards apply to snap, pole and wax beans, according to the Exchange there exists some confusion in the industry as to what types of beans may be certified by the U.S. Standards for Grades of Snap Beans.

—The U.S. Combination of Unclassified grades would be eliminated because they are rarely used and may create some confusion in the marketplace.

—Ease the restriction for broken beans only in the U.S. No. 1 and U.S. No. 2 grades, while further restricting the percentage of broken beans allowed in the U.S. Fancy grade. This further restriction would allow growers who "hand-pick" beans to market their

product under a grade that reflects the quality difference due to harvesting and packing techniques. It was the contention of those growers who hand-pick beans that due to the extra time and care that hand-picking requires and due to the premium price usually associated with hand-picked beans, a grade should be established that reflects these differences. With the majority of beans now being mechanically harvested rather than hand-picked, producers are finding that, with the newer, more tender varieties of beans, it is increasingly difficult to meet the grade tolerances for broken beans. Therefore, an increase in the tolerance for broken beans in the U.S. No. 1 and U.S. No. 2 grades was proposed.

The current standards for U.S. Fancy and U.S. No. 1 grades allow ten percent total defects, including not more than 5 percent serious damage, including therein not more than 1 percent soft rot. For the U.S. No. 2 grade, ten percent total defects are allowed including not more than 1 percent soft rot.

In addition, the following changes were proposed in the modified proposal only:

—Establish definitions as to what constitutes damage and serious damage by broken beans. The current standard does not address this defect. There has been much disagreement within the industry on what a "broken bean" truly is and how much of a break should be allowed before a bean is considered defective. In addition to those defects already noted in the existing standard under § 51.3841 "Damage," the revision would establish that a broken snap bean shall be considered as damage when (a) there is one break present in the thick portion of the bean or one break at each end in the thin portion of the bean; (b) any break that is materially affected by dirt or discoloration; (c) any break that is ragged and materially detracts from the appearance; or (d) unless otherwise specified, the remaining portion of the bean is less than 3½ inches in length (5½ inches for pole type beans).

Furthermore, under § 51.3844 "Serious Damage," it was proposed that a broken snap bean shall be considered as serious damage when (a) there is a break on each end in the thick portion of the bean; (b) any break is seriously affected by dirt or discoloration; (c) any break that is ragged and seriously detracts from the appearance, or exposes a seed; or (d) unless otherwise specified, the remaining portion of the bean is less than 3 inches in length (5 inches for pole type beans).

The 60-day comment period for the modified proposal ended December 11, 1989, and a total of 23 comments were received concerning the proposal.

Eighteen comments were in favor of the modified proposal. Fourteen of these were from Florida bean growers or grower associations, and four were from Federal and State supervisory inspection personnel.

One comment, from a grocery store chain, was opposed to any changes in the current standard, particularly the proposed increase in the tolerances for broken beans in both the U.S. No. 1 and U.S. No. 2 grades. It contended that broken beans have little commercial value and therefore higher tolerances should not be allowed.

Two other comments were from retailers in favor of decreasing the allowable percentage of broken beans in the U.S. Fancy grade as proposed, but were opposed to higher broken bean tolerances in both the U.S. No. 1 and U.S. No. 2 grades.

A comment also was received from a USDA Federal supervisor which basically agreed with the modified proposal, but suggested minor changes for clarity.

One additional comment, received from a snap bean processor, was more relevant to the U.S. Standards for Grades of Snap Beans for Processing, and therefore did not apply to the modified proposal.

AMS disagrees with the comments received in opposition to all or a portion of the proposed change. The standards for snap beans were last revised in 1936. The standards should reflect current growing and harvesting techniques. The majority of beans are now being mechanically harvested rather than handpicked. Information provided indicates that with newer, more tender varieties of beans, it is increasingly difficult to meet the requirements of grade due to the higher percentage of broken beans in any lot resulting from the harvesting process.

This rule would lessen the restriction for broken beans only in U.S. No. 1 and U.S. No. 2 grades while further restricting the percentage of broken beans in the U.S. Fancy grade. This would allow growers who "handpick" beans to market their product under a grade that reflects the quality difference due to harvesting and packing techniques. In addition, the changes suggested for clarity, including addition of a footnote regarding failure to comply with other laws and more specifically concerning reference to the thick or thin portion of the bean, in one comment are not adopted because such changes are viewed as unnecessary.

Accordingly, to the extent that comments received are inconsistent with the conclusions made herein, they are denied.

The new standard will read as follows:

(a) U.S. Fancy: Ten percent for beans in any lot which fail to meet the requirements of the grade, including not more than 3 percent damage by broken beans. Additionally, within the ten percent tolerance, not more than 5 percent shall be allowed for defects causing serious damage, including therein, not more than 1 percent for beans affected by soft rot.

(b) U.S. No. 1: Thirteen percent for beans in any lot which fail to meet the requirements of the grade, including not more than ten percent damage by grade defects other than damage by broken beans, including not more than 5 percent shall be allowed for defects causing serious damage, including therein, not more than 1 percent for beans affected by soft rot.

(c) U.S. No. 2: Fifteen percent for beans in any lot which fail to meet the requirements of the grade, including not more than ten percent serious damage by grade defects other than serious damage by broken beans, including therein, not more than 1 percent for beans affected by soft rot.

In addition, the new standard will:

—Revise the application of tolerances so that individual packages may contain one and one-half times the proposed thirteen and fifteen percent tolerances in the U.S. No. 1 and U.S. No. 2 grades respectively. This conforming change is necessary because under the current standard the maximum tolerance for defects permitted in any grade is ten percent and individual packages may contain up to one and one-half times that amount. As the revised rule would allow maximum defects of thirteen percent and fifteen percent in the U.S. No. 1 and U.S. No. 2 grades respectively, it is necessary to revise the application of tolerances so that individual packages may contain up to one and one-half times the thirteen percent tolerance or the fifteen percent tolerance, provided that the average for the entire lot averages within the maximum tolerance specified for the grade. Thus, section (a) of § 51.3836, Application of tolerance, would be revised to read as follows: For tolerances of ten percent or more, individual packages may contain not more than one and one-half times the tolerance specified. *Provided,* that the average for the entire lot is within the tolerance specified for the grade.

—Update and simplify the definition for "Similar Varietal Characteristics." Since varieties change in popularity

over time, the revised standard would delete the references to specific varieties in the current standard. The revised definition, however, would continue to provide that beans of different colors or types shall not be mixed within the same container.

The Agricultural Marketing Service has the responsibility to develop and improve standards of quality, condition, grade, and packaging in order to encourage uniformity and consistency in commercial practices. The Agency has determined this final rule will enhance the marketing of snap beans and better reflect modern growing and harvesting techniques and encourage uniformity and consistency in commercial practices. The provisions of this final rule are the same as those in the modified proposed rule.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, the subpart—United States Standards for Grades of Snap Beans, 7 CFR part 51, is amended as follows:

PART 51—[AMENDED]

1. The authority citation of 7 CFR part 51 continues to read as follows:

Authority: Secs. 203, 205, 60 Stat. 1087 as amended, 1090 as amended: 7 U.S.C. 1622, 1624, unless otherwise noted.

2. In subpart–United States Standards for Grades of Snap Beans, § 51.3829 is added to read as follows:

General

§ 51.3829 General.

These standards can be applied to all beans used in their entirety as opposed to shelled beans, and includes types such as snap, pole, and wax beans. These standards do not apply to types such as fava, Lima, pinto or calico beans.

§§ 51.3832 and 51.3834 [Removed and Reserved]

3. Sections 51.3832 and 51.3834 are removed and reserved.

4. Paragraphs (a), (b), and (c) of § 51.3835 are revised to read as follows:

Tolerances

§ 51.3835 Tolerances.

* * * * *

(a) *U.S. Fancy.* Ten percent for beans in any lot which fail to meet the requirements of the grade, including not more than 3 percent damage by broken beans. Additionally, within the ten percent tolerance, not more than 5 percent shall be allowed for defects causing serious damage, including therein, not more than 1 percent for beans affected by soft rot.

(b) *U.S. No. 1.* Thirteen percent for beans in any lot which fail to meet the requirements of the grade, including not more than ten percent damage by grade defects other than damage by broken beans, including not more than 5 percent shall be allowed for defects causing serious damage, including therein, not more than 1 percent for beans affected by soft rot.

(c) *U.S. No. 2.* Fifteen percent for beans in any lot which fail to meet the requirements of the grade, including not more than ten percent serious damage by grade defects other than serious damage by broken beans, including therein, not more than 1 percent for beans affected by soft rot.

5. Paragraph (a) of § 51.3836 is revised to read as follows:

Application of Tolerances

§ 51.3836 Application of tolerances.

* * * * *

(a) For tolerances of ten percent or more, individual packages may contain not more than one and one-half times the tolerances specified: *Provided,* That the average for the entire lot is within the tolerance specified for the grade.

* * * * *

6. Section 51.3837 is revised to read as follows:

§ 51.3837 Similar varietal characteristics.

"Similar varietal characteristics" means that the beans are of the same color and general type. For example, wax and green beans, or Snap and Pole beans may not be mixed.

7. Section 51.3841 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 51.3841 Damage.

* * * * *

(b) Broken beans shall be considered as damage when:

(1) There is one break present in the thick portion of the bean or one break at each end in the thin portion of the bean;

(2) Any break that is materially affected by dirt or discoloration;

(3) Any break that is ragged and materially detracts from the appearance; or

(4) Unless otherwise specified, the remaining portion of the bean is less than 3½ inches in length (5½ inches for pole type beans).

8. Section 51.3844 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 51.3844 Serious damage.

* * * * *

(b) Broken beans shall be considered as serious damage when:

(1) There is a break on each end in the thick portion of the bean;

(2) Any break is seriously affected by dirt or discoloration;

(3) Any break is ragged and seriously detracts from the appearance or exposes a seed; or

(4) Unless otherwise specified, the remaining portion of the bean is less than 3 inches in length (5 inches for pole type beans).

Dated: May 30, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90–12885 Filed 6–1–90; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Regulation 720]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 720 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 415,000 cartons during the period from June 3, 1990, through June 9, 1990. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 720 (7 CFR part 910) is effective for the period from June 3, 1990, through June 9, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant

economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989–90. The Committee met publicly on May 30, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for large-sized lemons (140's or larger) is good. However, price discounting continues on small-sized lemons.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Note.—This section will not appear in the Code of Federal Regulations.

2. Section 910.720 is added to read as follows:

§ 910.720 Lemon Regulation 720.

The quantity of lemons grown in California and Arizona which may be handled during the period from June 3, 1990, through June 9, 1990, is established at 415,000 cartons.

Dated: May 31, 1990.

Robert C. Keeney,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 90–12997 Filed 6–1–90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 953

[Docket No. FV–90–157]

Southeastern Potatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 953 for the 1990–91 fiscal period. Authorization of this budget will allow the Southeastern Potato Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: June 1, 1990, through May 31, 1991.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 104 and Marketing Order No. 953 (7 CFR part 953), both as amended, regulating the handling of Irish potatoes grown in Southeastern States (Virginia and North Carolina). The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "no-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 60 handlers of Southeastern potatoes currently subject to regulation under this marketing order each season, and approximately 150 potato producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1990–91 fiscal year was prepared by the Southeastern Potato Committee (committee), the agency responsible for local administration of the order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of Southeastern potatoes. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to

formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of potatoes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on April 16, 1990, and unanimously recommended a 1990–91 budget of $11,000, the same as last year's, and an assessment rate of $0.0075 per hundredweight, $0.0025 less than last year's. Major expense items include committee staff salaries and travel expenses. The assessment rate, when applied to anticipated fresh market potato shipments of 500,000 hundredweight, will yield $3,750 in assessment revenue which, when added to $7,250 from reserve funds, will be adequate to cover budgeted expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on the producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** on May 7, 1990 (55 FR 18909). That document contained a proposal to add § 953.247 to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through May 17, 1990. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1990–91 fiscal period begins on June 1, 1990, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 953

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 953 is amended as follows:

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

1. The authority citation for 7 CFR part 953 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 953.247 is added to read as follows:

Note: This section prescribes the annual expenses and assessment rate and will not be published in the Code of Federal Regulations.

§ 953.247 Expenses and assessment rate.

Expenses of $11,000 by the Southeastern Potato Committee are authorized, and an assessment rate of $0.0075 per hundredweight of potatoes is established for the fiscal period ending May 31, 1991. Unexpended funds may be carried over as a reserve.

Dated: May 30, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–12880 Filed 6–1–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 998

[Docket No. FV–90–149]

Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts; Establishment of Expenses, Assessment Rate, and Indemnification Reserve for the Peanut Administrative Committee for the 1990–91 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures for administration and indemnification, establishes an assessment rate, and authorizes continuation of an indemnification reserve under Marketing Agreement No. 146 for the 1990–91 crop year. The action is needed for the Peanut Administrative Committee (committee) to incur operating expenses, collect funds to pay those expenses and settle indemnification claims during the 1990–91 crop year. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: July 1, 1990 through June 30, 1991 (Section 998.403).

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2530–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 146 (7 CFR part 998) regulating the quality of domestically produced peanuts. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 50 handlers of peanuts covered under the peanut marketing agreement, and approximately 46,950 producers in the 16 States covered under the agreement. The change in the number of handlers, stated as 68 handlers in the proposed rule, is due to recently updated information received from the committee on the total number of peanut handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. Some of the handlers covered under the agreement are small entities, and a majority of producers may be classified as small entities.

Under the marketing agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e., July 1). An annual budget of expenses and rate of assessment are prepared by the committee and submitted to the Department of

Agriculture for approval. The members of the committee are handlers and producers of peanuts. They are familiar with the committee's needs and with the costs for goods, services and personnel for program operations and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed at industry-wide public meetings. Thus, all directly affected persons have an opportunity to participate and provide input. The handlers of peanuts who will be directly affected have signed the marketing agreement authorizing the expenses that may be incurred and the imposition of assessments.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. It applies to all assessable peanuts received by handlers from July 1, 1990. Because that rate is applied to actual receipts and acquisitions, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. The recommended budget, rate of assessment, and the continuation of an indemnification reserve were acted upon by the committee on March 21–22, 1990, and expenses are incurred on a continuous basis. Therefore, this budget and assessment rate approval must be expedited so that the committee will have funds to pay its expenses starting on July 1, 1990.

Notice of this action was published in the **Federal Register** on April 16, 1990 (55 FR 14096). The comment period ended May 16, 1990. No comments were received.

The committee unanimously recommended a 1990–91 budget of administrative expenses of $910,000, $60,000 more that budgeted last year. Budget items for 1990–91 which have increased compared to those budgeted for 1989–90 (in parentheses) are: Executive salaries, $125,000 ($119,521); field representative salaries, $237,000 ($225,500); payroll taxes, $43,000 ($39,000); employee benefits, $125,000 ($89,000); field tavel, $92,000 ($90,000); office rent and parking, $48,000 ($45,700); and furniture and equipment $7,500 ($3,000). All other items are budgeted at about last year's amounts except for clerical salaries which have been decreased from $136,000 to $130,000. The administrative budget includes $6,000 for contingencies.

The committee recommended an assessment rate of $0.52 per ton of assessable peanuts to cover administrative expenses. Last year, the assessment rate was $0.50 per ton. The 1990 assessable tonnage was estimated at 1.75 million tons, the same as last year. Application of the recommended assessment rate to this estimate is expected to result in $910,000 for administrative expenses. Funding for administrative expenses will also be available from interest on time deposit.

An estimated $7.1 million is expected to be carried forward into the 1990–91 crop year as a reserve under the agreement to meet indemnification expenses. This reserve is deemed adequate to cover indemnification expenses for the 1990–91 crop year. Therefore, the committee did not recommend as assessment to make monetary additions to the indemnification reserve. Funding for the indemnification account will also be generated from interest on time deposits.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers signatory to the agreement. Some of the additional costs may be passed on to producers. However, these costs are expected to be significantly offset by the benefits derived from the operation of the marketing agreement. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the committee, it is found that this final rule will tend to effectuate the declared policy of the Act.

This final rule should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. The 1990–91 crop year begins July 1, 1990. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 998 is amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 998.403 is added to read as follows:

Note: This section will not be published in the Code of Federal Regulations.

§ 998.403 Expenses, assessment rate, and indemnification reserve.

(a) *Administrative expenses.* The budget of expenses for the Peanut Administrative Committee for the crop year beginning July 1, 1990, shall be in the amount of $910,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the committee and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the committee for indemnification payments, pursuant to the terms and conditions of indemnification applicable to the 1990 crop, effective July 1, 1990, are not expected to exceed the balance of the indemnification reserve (approximately $7.1 million), such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the committee, in accordance with § 998.48 of the marketing agreement, an assessment at the rate of $0.52 per net ton of farmers' stock peanuts received or acquired other than from those described in §§ 998.31 (c) and (d). All funds generated from this assessment shall be for administrative expenses.

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to the § 998.48 of the agreement, shall continue. That portion of the total assessment funds accrued from previous crop years and not expended in providing indemnification on 1990 crop peanuts shall be kept in such reserve and shall be available to pay indemnification expenses on subsequent crops.

Dated: May 30, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–12878 Filed 6–1–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-09-AD; Amdt. 39-6623]

Airworthiness Directives; Airship Industries Model Skyship 600 Airships

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive [AD], applicable to Airship Industries Model Skyship 600 Airships, which requires the inspection of the T-chest gaiter for evidence of proper attachment and repair, if necessary. An airship was manufactured with double sided tape in lieu of a correctly bonded gaiter. The gaiter bond provides the necessary gas seal between the air system trunking and the helium space. The proposed action will preclude the loss of the airship's lift capability.

DATES: *Effective Date:* July 9, 1990.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD.

ADDRESSES: Alert Inspection Service Bulletin SB REF 600-53-A311, dated June 10, 1989, applicable to this AD, may be obtained from Airship Industries Limited, No. 1 Hangar, Cardington, Shortstown, Bedford, England; Telephone 0234-741901. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Carl F. Mittag, Brussels Aircraft Certification Office, c/o American Embassy, APO New York 09667-1011; Telephone 011-32-793.21.10, or James S. Kishi, FAA, room 1554, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6933.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring inspection of the gaiter to the T-chest to determine if double sided tape has been used, and if so, installation of a bonded reinforcement repair on certain Airship Industries Model Skyship 600 Airships, was published in the **Federal Register** on March 9, 1990 (55 FR 8962). The proposal resulted from a report of an airship that was manufactured utilizing double sided tape. Consequently, Airship Industries issued Alert Inspection Service Bulletin SB REF 600-53-A311, dated June 10, 1989, which requires the inspection and repair, if necessary, of the T-chest gaiter.

The Civil Aviation Authority, which has responsibility and authority to maintain the continuing airworthiness of these airships in the United Kingdom, classified this Alert Inspection Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airships.

On airships operated under British registration, this action has the same effect as an AD on airships certified for operation in the United States. The FAA relies upon the certification of the Civil Aviation Authority combined with FAA review of pertinent documentation in finding compliance of the design of these airships with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States. The FAA examined the available information related to the issuance of Alert Inspection Service Bulletin SB REF 600-53-A311, dated June 10, 1989, and the mandatory classification of this Service Bulletin by the British CAA, and concluded that the condition addressed by Alert Inspection Service Bulletin SB REF 600-53-A311, dated June 10, 1989, was an unsafe condition that may exist on other airships of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposed AD is adopted without change. The FAA has determined that this regulation involves 3 airships at an approximate one-time cost of $35 for each airship, or a total one-time fleet cost of $100. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airships.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Airships Industries: Applies to Model Skyship 600 Series (all serial numbers) airships certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To preclude loss of lift capability, accomplish the following:

(a) Inspect the attachment of the gaiter to the T-chest, and if double sided tape has been used, prior to further flight install a bonded reinforcement repair in accordance with the instructions specified in Airship Industries Alert Service Bulletin SB Ref 600-53-A311, dated June 10, 1989.

(b) Airship may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, c/o American Embassy, APO New York 09667-1011.

Note.—The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Airship Industries, No.

1 Hangar, Cordington, Shortstown, Bedford, England, or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on July 9, 1990.

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-12822 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-CE-33-AD; Amdt. 39-6622]

Airworthiness Directives; deHavilland Model DHC-3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to deHavilland Model DHC-3 airplanes, which would require inspections of the tailplane structure for cracks, and if necessary, replacement with an improved part. There have been reports of airplanes with the main rib forward flange and the forward lower flange cracked at the tailplane front attachment fitting. The actions specified in this AD will detect and correct this condition and preclude failure of the tailplane structure.

DATES: *Effective date:* July 9, 1990.

Compliance: As prescribed in the body of this AD.

ADDRESSES: deHavilland Service Bulletin (S/B) No. 3/46, Revision "B", dated December 1, 1989, applicable to this AD, may be obtained from Boeing of Canada, Ltd., deHavilland Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Socias, Aerospace Engineer, Airframe Branch, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, NY 11581, Telephone (516) 791-6220, Facsimile (516) 791-9024.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring inspections for cracks in the tailplane structure of deHavilland Model DHC-3 airplanes was published in the **Federal Register** on January 16, 1990 (55 FR 1450). The proposal resulted from field reports, received by Boeing Canada, deHavilland Division, stating that several Model DHC-3 airplanes have experienced cracking of the main rib forward flange and the forward lower flange at the tailplane front attachment fitting location. As a result of these field reports, Boeing Canada, deHavilland Division, issued Service Bulletin 3/46, Revision B, dated December 1, 1989, which specified initial and recurring dye penetrant inspections, based on calendar time, for cracks of the main rib forward flange and the forward lower flange and a replacement procedure using improved parts if cracks are found. Transport Canada, which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, classified this service bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes, and is in the process of drafting an Airworthiness Directive addressing this subject. On airplanes operated under Canadian registration, this action will have the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of Transport Canada combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this type design certificated for operation in the United States.

The FAA examined the available information related to the issuance of Service Bulletin No. 3/46, Revision B, dated December 1, 1989 and the mandatory classification of this service bulletin by Transport Canada and concluded that the condition addressed by deHavilland Service Bulletin No. 3/46, Revision B, was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States.

Accordingly, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject. In the development of this proposal, the FAA deviated from utilizing flight hours as the usual method of specifying an inspection interval to detect metal fatigue. In this case, it has not been determined whether the rib flange cracking is a result of inflight loads (flight hours) or loads due to ground gusts. Therefore, airplanes with lower usage may experience a cracked rib flange before an airplane with higher usage. For this reason, calendar time rather than flight hours was judged to be an appropriate inspection basis.

Interested persons have been afforded an opportunity to comment on the proposal. The manufacturer submitted two comments. The first addresses the statement in the compliance section of the AD which reads "required as indicated in the body of the AD, unless previously accomplished". The commenter states that since a repeat inspection is required at two-year intervals, the statement "unless previously accomplished" is meaningless. The FAA does not concur and concludes that this statement is necessary to preclude any operator from being required to repeat the initial inspection, if it was actually accomplished before receiving the AD.

The other comment received by the manufacturer addresses the fact that the NPRM fails to give instructions in the event cracking is not found. The manufacturer's position is that the AD should state clearly, "No further action is required, when cracks are not found." The FAA does not concur since it is the intent of the AD to require repetitive inspections every two years whether or not cracks are found.

After careful review of the available data, including the comments noted above, the proposal is being adopted without change except for minor editorial clarifications. The FAA has determined that this regulation involves 49 airplanes at an approximate cost of $1400 for each airplane. The total cost is estimated to be $68,600. Few, if any, small entities affected by this AD own sufficient airplanes to cause their cost of compliance to equal or exceed the significant thresholds of the Regulatory Flexibility Act.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action

is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Boeing Canada, deHavilland Division: Applies to Model DHC-3 (all serial numbers) airplanes certified in any category.

Compliance: Required as indicated in the body of this AD, unless previously accomplished.

To prevent failure of the tailplane structure, accomplish the following:

(a) Within the next three calendar months after the effective date of this AD, and thereafter at intervals not to exceed two calendar years, accomplish the following inspection in accordance with deHavilland Service Bulletin No. 3/48, Revision "B", dated December 1, 1989.

(1) Perform a dye penetrant inspection of the main rib forward flange to front spar attachment fitting.

Note 1.—Pay particular attention to the front attachment fitting area.

(2) Perform a dye penetrant inspection of the forward lower flange to front spar attachment fitting.

(3) Prior to further flight, repair any cracked main rib forward flange and any cracked forward lower flange in accordance with the above deHavilland Service Bulletin.

(b) An alternate method of compliance or adjustment of the initial or repetitive compliance times which provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

Note 2.—The reqest should be forwarded through an FAA Maintenance Inspector who may add comments and then send it to the Manager, New York Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Boeing Canada, deHavilland Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5 or may examine this document at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on July 9, 1990.

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-12823 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-13-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: This document makes several revisions to the procedural rules governing practice before the Occupational Safety and Health Review Commission. The primary revision removes language that discouraged oral argument before the Commission and sets forth rules for the conduct of such argument. The Commission has determined that, given the increasing complexity of the cases coming before it, oral argument will facilitate its decision-making process. It is expected that these rules will encourage parties to seek oral argument.

This document also amends the Commission's procedural rules to require that show cause orders be served by certified mail, return receipt requested. This amendment will insure that parties facing default have been accorded sufficient time to respond to a show cause order before being defaulted. Also, this document amends the Commission's rules to require that corporate employers identify all corporate affiliations at the onset of Commission proceedings. Such early disclosure will assist the Commission's Judges in determining whether recusal or disqualification is appropriate.

EFFECTIVE DATE: June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 634-4015.

SUPPLEMENTARY INFORMATION: The Commission finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(A)), that these revisions relate solely to agency organization, procedures, or practices. Therefore they are not subject to the provisions of the Administrative Procedure Act requiring notice and opportunity for comment. These revisions are effective upon publication in the Federal Register.

I. Show Cause Orders

Language is added to §§ 2200.36, 2200.37, 2200.41, 2200.52 and 2200.104 to require that show cause orders be served on the affected party by certified mail, return receipt requested. Failure to respond in a timely fashion to a show cause order will usually result in the Commission or Judge imposing substantial sanctions including, but not limited to, default. If the affected party asserts that it did not receive the show cause order in a manner sufficient to insure a timely response, substantial resources must be invested by the parties and the Commission to determine whether the sanctions should be vacated. By requiring that show cause orders be served by certified mail, return receipt requested, any uncertainty concerning the date of service is eliminated.

II. Disclosure of Corporate Parents, Subsidiaries, or Affiliates

Currently, under § 2200.91(h), a corporate employer filing a petition for discretionary review with the Commission, or a response to such a petition, is required to disclose its full organizational structure to the Commission. Such disclosure greatly assists Commission members in determining whether they have a financial interest in a party to the proceeding. This document deletes § 2200.91(h) and amends §§ 2200.36 and 2200.37 by requiring employers to make the disclosure at the pleading stage of the proceedings. This amendment will provide the Commission's Judges with the information they need to determine whether they have a financial interest in a party to a proceeding.

Until the judge's decision is docketed with the Commission, the official file remains with the Judge unless the Commission grants an interlocutory appeal. Therefore, in those instances where a petition for interlocutory review has been filed, the Commission would not have access to any declaration of corporate identity filed earlier in the proceeding. Accordingly, the Commission is retaining the requirement, set forth under § 2200.73(b), that a corporate party that files a petition for interlocutory review, or a response to such a petition, file with the Commission a copy of its declaration of corporate parents, subsidiaries, and affiliates, or if applicable, a statement that there are no corporate parents,

subsidiaries, or affiliates. A conforming amendment to § 2200.73(b) has been made to reflect the deletion of § 2200.91(h) and the addition of §§ 2200.36(c) and 2200.37(d)(4).

III. Oral Argument

As currently promulgated, § 2200.95(a) indicates that, as a general principle, oral arguments will not be allowed. As the complexity of the cases coming before the Commission has increased, however, it has become apparent that the Commission's decision-making process would be substantially facilitated by having the parties participate in oral argument. The Commission anticipates using oral argument to supplement the briefs by giving the parties an opportunity to answer questions on matters raised, but not fully explored, in their briefs. The Commission does not intend oral argument to be a substitute for briefs or to merely reiterate the contents of the briefs.

Ordering Oral Argument

Section 2200.95(a) sets forth the mechanics of ordering oral argument, how issues will be designated, and the location of oral argument.

Paragraph (a)(1)—This paragraph would allow either party to move the Commission to hold oral argument. It is expected that such a motion would set forth reasons why and on what issues oral argument would be helpful to the Commission. Moreover, the Commission may, on its own motion, order oral argument whenever, in its opinion, such argument would facilitate its decision-making process.

Paragraph (a)(2)—When granting a motion for oral argument, or when ordering oral argument without motion, the Commission may, under § 2200.95(a)(2), designate specific issues to be addressed. The Commission may include some or all of the issues requested by the moving party or, where it deems necessary, designate issues in addition to those requested.

Paragraph (a)(3)—This paragraph indicates that, except under extraordinary circumstances, oral arguments will be held at a location in Washington, DC. Due to budgetary and time constraints, the Commission expects to hold oral arguments at its national office at 1825 K St. NW., Washington, DC 20006. The national office has facilities adequate to entertain most oral arguments. Occasionally, however, scheduling or other problems may preclude the use of the Commission's own facilities. Under such circumstances, the Commission will endeavor to obtain the use of suitable facilities elsewhere in Washington, DC. The Commission will consider holding oral argument in a location outside of Washington, DC only under exceptional circumstances.

Notice

As stated in § 2200.95(b), the Executive Secretary will advise all parties of the time and place of oral argument and inform the parties of the issues to be heard and the time allocated to the parties for their arguments.

Postponement

Section 2200.95(c) sets forth the procedures for requesting postponement of a previously scheduled oral argument.

Paragraph (c)(1)—As required by this paragraph, a request for postponement must be filed at least seven days before the oral argument is scheduled. It is expected that this time limit will give the Commission ample opportunity to rule on the motion and notify the parties of any postponement.

Paragraph (c)(2)—Because of the distances some parties may be traveling and the expense involved, the Executive Secretary has the discretion under this paragraph to notify the parties of the postponement in a manner best calculated to avoid unnecessary travel or inconvenience.

Order and Content of Argument

Section 2200.95(d) sets forth the order and content of oral argument.

Paragraph (d)(1)—Because of the varying complexity of the cases to be argued, the Commission will determine, on a case by case basis, the amount of time to be allocated to the parties. The Commission will entertain requests for enlargement of time filed reasonably in advance of the date set for the argument.

Paragraph (d)(2)—This paragraph sets the order of argument. As indicated, the party filing the petition for discretionary review shall argue first. When oral argument is heard on cross-petitions, the Commission will inform the parties of the order of argument.

Paragraph (d)(3)—In earlier oral arguments, it has been the experience of the Commission that, given the opportunity, most parties will automatically reserve time for rebuttal. Rather than adding anything new to the arguments, this time has typically been used merely to reiterate what the party had stated earlier. Therefore, under this paragraph, the Commission will normally not allow rebuttal. Should an unexpected matter arise, the Commission may, in its discretion, allow a party additional time to address the matter.

Paragraph (d)(4)—This paragraph intends to stress to the parties that the purpose of oral argument is to augment, not reiterate, the briefs. The parties should also expect the opportunity to address matters raised by the Commissioners as a result of their review of the parties' briefs.

Paragraph (d)(5)—Under this paragraph, the Commission reserves the right to propound questions to any participating party and to terminate oral argument at any time.

Failure to Appear

As set forth in § 2200.95(e), should one of the parties fail to appear for oral argument, the other party may be allowed to present its argument. The Commission acknowledges the time and expense required to prepare for oral argument. Moreover, even where only one party appears, the Commission may find it useful to hear from or question that party. Therefore, the Commission will normally allow the appearing party to proceed with its argument despite the nonappearance of the other party.

Consolidated Cases

Under § 2200.95(f), when oral argument is ordered in consolidated cases, the cases shall be considered as one for the purpose of allotting time to the parties. Under § 2200.9, cases are consolidated when there exist common parties, common questions of law or fact, or in such other circumstances as justice or the administration of the Occupational Safety and Health Act require. When a case is set for oral argument on issues common to the consolidated cases, the Commission expects parties on the same side to cooperate in the presentation of their case in a manner that avoids unnecessary duplication. That there is more than one party on a side will not result in an enlargement of the time given to that side.

Multiple Counsel

Section 2200.95(g) requires that when more than one counsel argues for a party or for multiple parties on the same side of the case, it is the responsibility of counsel to agree among themselves on a fair division of the allotted time. The Commission stresses that the appearance of multiple counsel, through consolidation or otherwise, will not result in an increase in the time allotted to that side. Should the counsel be unable to agree on a fair division of time, time will be allocated by the Commission.

While the Commission does not limit by rule the number of counsel that may be heard for each party or side in an argument, it reserves the right to limit the number of counsel when, in its discretion, it finds such action to be necessary.

Exhibits

Section 2200.95(h) sets forth the rules for the use of exhibits and visual aids at oral argument.

Paragraph (h)(1)—This rule allows the parties to use exhibits introduced into evidence or other visual aids to enhance the value of their argument. A party wishing to use a visual aid that is not part of the record must inform the opposing counsel of the intended use 15 days prior to the argument. The notice is expected to provide enough information to allow opposing counsel to make an informed decision whether to object to the use. Objections to the use of visual aids not in evidence must be made no later than five days before the argument.

Paragraph (h)(2)—Although the Commission may allow the use of visual aids not part of the record, it will not allow such visual aids to introduce or rely upon facts or evidence not already part of the record. It is expected that such visual aids will be used to highlight facts or evidence already in the record to facilitate the Commission's understanding of the matters at issue.

Paragraph (h)(3)—This rule sets forth procedures to prevent the use of exhibits or visual aids from disrupting the oral argument. Counsel using nondocumentary exhibits or visual aids must arrange with the Executive Secretary to have them placed in the hearing room on the day of the oral argument, before the Commission convenes. The Commission generally will not allow a party to set up its visual aids if such activity will delay or disrupt the oral argument.

Paragraph (h)(4)—This rule controls the removal or disposal of visual aids used at oral argument. Unless the Commission directs otherwise, the party using a visual aid not part of the record is responsible for having it removed after the oral argument. If a visual aid is not reclaimed within a reasonable time after notice is given by the Executive Secretary, it shall be disposed of at the discretion of the Executive Secretary.

Recording Oral Argument

Section 2200.95(i) sets forth the procedures for recording oral argument.

Paragraph (i)(1)—Unless the Commission directs otherwise, oral arguments will be electronically recorded and made part of the record. To prevent interference with the Commission's recording apparatus, and to curtail a proliferation of recording devices in the hearing room, no other sound recordings will be permitted. Upon leave of the Commission, a party desiring a written transcript of the oral argument may arrange to have a qualified court reporter at the argument. To ensure that the Commission is aware of any contradictory versions of the oral argument, the party ordering the transcript shall provide a copy to the Commission. All expenses incurred in obtaining the transcripts shall be borne by the requesting party.

Paragraph (i)(2)—Persons desiring to listen to the recording of an oral argument should contact the Executive Secretary to make the appropriate arrangements.

List of Subjects in 29 CFR Part 2200

Hearing and appeal procedures, Administrative practice and procedure.

Text of Amendment

Title 29, chapter XX, part 2200 of the Code of Federal Regulations is amended as follows:

PART 2200—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 29 U.S.C. 661(g).

2. In § 2200.36, paragraph (c) is added to read as follows:

§ 2200.36 Content of answer.

* * * * *

(c) *Corporate parents, subsidiaries, and affiliates; disclosure*—(1) *General.* All answers filed under this section by a corporation shall be accompanied by a separate declaration listing all parents, subsidiaries, and affiliates of that corporation or stating that the corporation has no parents, subsidiaries, or affiliates, whichever is applicable.

(2) *Failure to disclose.* The Commission or Judge in its discretion may refuse to accept for filing an answer that lacks the disclosure declaration required by this paragraph. A party that fails to file an adequate declaration may be held in default after being given an opportunity to show cause why it should not be held in default.

(3) *Continuing duty to disclose.* A party subject to the disclosure requirement of this paragraph has a continuing duty to notify the Commission or the Judge of any change in the information on the disclosure declaration until the Commission issues a final order disposing of the proceeding.

(4) *Show cause orders.* All show cause orders issued by the Commission or Judge under paragraph (c)(2) of this section shall be served upon the affected party by certified mail, return receipt requested.

3. In § 2200.37, paragraph (d)(4) is revised and new paragraph (d)(5) is added to read as follows:

§ 2200.37 Petitions for modification of the abatement period.

* * * * *

(d) * * *

(4) Where the petitioner is a corporation, it shall file a separate declaration listing all parents, subsidiaries, and affiliates of that corporation or stating that the corporation has no parents, subsidiaries, or affiliates, whichever is applicable, within 10 working days after the receipt of notice of the docketing by the Commission of the petition for modification of the abatement date. The requirements set forth in § 2200.36(c)(2)–(4) shall apply.

(5) Each objecting party shall file a response setting forth the reasons for opposing the abatement date requested in the petition, within 10 working days after the receipt of notice of the docketing by the Commission of the petition for modification of the abatement date.

4. In § 2200.41, paragraph (d) is added to read as follows:

§ 2200.41 Failure to obey rules.

* * * * *

(d) *Show cause orders.* All show cause orders issued by the Commission or Judge under paragraph (a) of this section shall be served upon the affected party by certified mail, return receipt requested.

5. In § 2200.52, paragraph (g) is added to read as follows:

§ 2200.52 General provisions governing discovery.

* * * * *

(g) *Show cause orders.* All show cause orders issued by the Commission or Judge under paragraph (e) of this section shall be served upon the affected party by certified mail, return receipt requested.

6. In § 2200.73, paragraph (b) is revised to read as follows:

§ 2200.73 Interlocutory review.

* * * * *

(b) *Petition for interlocutory review.* Within five days following the receipt of a Judge's ruling from which review is sought, a party may file a petition for interlocutory review with the

Commission. Responses to the petition, if any, shall be filed within five days following service of the petition. A copy of the petition and responses shall be filed with the Judge. The petition is denied unless granted within 30 days of the date of receipt by the Commission's Executive Secretary. A corporate party that files a petition for interlocutory review or a response to such a petition under this section shall file with the Commission a copy of its declaration of corporate parents, subsidiaries, and affiliates previously filed with the Judge under the requirements of § 2200.36(c) or § 2200.37(d)(4). In its discretion the Commission may refuse to accept for filing a petition or response that fails to comply with this disclosure requirement. A corporate party filing the declaration required by this paragraph shall have a continuing duty to advise the Executive Secretary of any changes to its declaration until the Commission either denies the petition for interlocutory appeal or issues its decision on the merits of the appeal.

* * * * *

§ 2200.91 [Amended]

7. In § 2200.91, paragraph (h) is removed and paragraph (i) is redesignated as paragraph (h).

8. Section 2200.95 is revised to read as follows:

§ 2200.95 Oral argument before the Commission.

(a) *When ordered.* (1) Upon motion of any party, or upon its own motion, the Commission may order oral argument.

(2) The Commission may designate specific issues to be addressed.

(3) Except under extraordinary circumstances, oral argument shall be held at a location in Washington, DC.

(b) *Notice of argument.* The Executive Secretary shall advise all parties whether oral argument is to be heard. Within a reasonable time before the oral argument is scheduled, the Executive Secretary shall inform the parties of the time and place therefor, the issues to be heard, and the time allotted to the parties.

(c) *Postponement.* (1) Except under extraordinary circumstances, a request for postponement must be filed at least seven days before oral argument is scheduled.

(2) The Executive Secretary shall notify the parties of a postponement in a manner best calculated to avoid unnecessary travel or inconvenience to the parties. The Executive Secretary shall inform all parties of the new time and place for the oral argument.

(d) *Order and content of argument.* (1) Counsel shall be afforded such time for oral argument as the Commission may provide by order. Requests for enlargement of time may be made by motion filed reasonably in advance of the date fixed for the argument.

(2) The petitioning party shall argue first. If the case is before the Commission on cross-petitions, the Commission will inform the parties in advance of the order of appearance.

(3) Counsel are expected to cover all anticipated issues in their arguments in chief. Therefore, rebuttal will normally not be allowed. Should unexpected matters arise, the Commission,in its discretion, may give counsel additional time.

(4) Oral argument should undertake to emphasize and clarify the written arguments appearing in the briefs. The Commission will look with disfavor on any oral argument that is read from a previously filed document.

(5) At any time, the Commission may terminate a party's argument or interrupt the party's presentation for questioning by the Commissioners.

(e) *Failure to appear.* Should either party fail to appear for oral argument, the party present may be allowed to proceed with its argument.

(f) *Consolidated cases.* Where two or more consolidated cases are scheduled for oral argument, the consolidated cases shall be considered as one case for the purpose of allotting time to the parties unless the Commission otherwise directs.

(g) *Multiple Counsel.* Where more than one counsel argues for a party to the case or for multiple parties on the same side in the case, it is counsels' responsibility to agree upon a fair division of the total time allotted. In the event of a failure to agree, the Commission will allocate the time. The Commission may, in its discretion, limit the number of counsel heard for each party or side in the argument.

(h) *Exhibits/Visual Aids.* (1) The parties may use models, specimens, samples, charts or exhibits introduced into evidence at the hearing. If a party wishes to use a visual aid not part of the record, written notice of the proposed use shall be given to opposing counsel 15 days prior to the argument. Objections, if any, shall be in writing, served on all adverse parties, and filed not fewer than five days before the argument.

(2) No visual aid shall introduce or rely upon facts or evidence not already part of the record.

(3) If visual aids or exhibits other than documents are to be used at the argument, counsel shall arrange with the Executive Secretary to have them placed in the hearing room on the date of the argument before the Commission convenes.

(4) Parties using visual aids not introduced into evidence shall have them removed from the hearing room unless the Commission directs otherwise. If such visual aids are not reclaimed by the party within a reasonable time after notice is given by the Executive Secretary, such visual aids shall be disposed of at the discretion of the Executive Secretary.

(i) *Recording oral argument.* (1) Unless the Commission directs otherwise, oral arguments shall be electronically recorded and made part of the record. Any other sound recording in the hearing room is prohibited. Upon leave of the Commission, any party, at its own expense, may arrange for a qualified court reporter to be present and to report and transcribe oral arguments. A copy of the transcript shall be provided to the Commission by the ordering party and shall be filed with the Executive Secretary.

(2) Persons desiring to listen to the recordings shall make appropriate arrangements with the Executive Secretary.

9. In § 2200.104, paragraph (d) is added to read as follows:

§ 2200.104 Standards of conduct.

* * * * *

(d) *Show cause orders.* All show cause orders issued by the Commission or Judge under paragraph (c) of this section shall be served upon the affected party by certified mail, return receipt requested.

Dated: May 29, 1990.

Edwin G. Foulke, Jr.,

Chairman.

Dated: May 29, 1990.

Velma Montoya,

Commissioner.

Dated: May 29, 1990.

Donald G. Wiseman,

Commissioner.

[FR Doc. 90-12824 Filed 6-1-90; 8:45 am]

BILLING CODE 7600-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3746-6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Approval of Regulations for Nonattainment Area Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action gives final approval to a revision of the State of New Mexico Implementation Plan (SIP) to include Air Quality Control Regulation (AQCR) 709, Permits-Nonattainment Areas. This regulation was submitted to EPA on November 5, 1985, with regulatory revisions on August 19, 1988, and a commitment letter on September 29, 1988, in order to satisfy the conditional approval of New Mexico's 1979 Part D SIP (45 FR 24509). Proposal of this SIP revision appeared in the **Federal Register** on August 31, 1988 (53 FR 33505). EPA received comments from two groups. These are responded to in the **SUPPLEMENTARY INFORMATION** section of this notice. The regulation in the SIP revision establishes a program under which new major sources and major modifications may be constructed in areas where a National Ambient Air Quality Standard (NAAQS) is being exceeded, without interfering with the continuing progress toward attainment of that standard.

EFFECTIVE DATE: This final rule will become effective on July 5, 1990.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1445 Ross Avenue, Dallas, Texas 75202-2733.

New Mexico Environmental Improvement Division, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico 87504-0968.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Bill Riddle at (214) 655-7214 or (FTS) 255-7214.

SUPPLEMENTARY INFORMATION: EPA proposed New Mexico's rule 709 for approval as part of the New Mexico SIP in the **Federal Register** on August 31, 1988 (53 FR 33505). The reader should refer to that notice for the background information, history, and issues associated with this regulation.

EPA received comments from two entities during the comment period. The State commented that it would comply with EPA's request in the proposed approval. The State has corrected the four requests identified at 53 FR 33507 and submitted the revisions, adopted by the State on July 8, 1988, to EPA on August 19, 1988. The State was required to:

1. Modify language to assure an offset permit is federally enforceable,
2. Clarify the requirements for an emission offset exemption,
3. Qualify the use of banking of emission reductions,
4. Include a definition for Volatile Organic Compound in the regulation.

EPA requested two commitments be made by the State (53 FR 33506, 53 FR 33507). These commitments were:

1. To submit a committal letter agreeing not to waive NSPS or NESHAP performance testing, and

2. To include a special caveat in certain permits involving stack heights. These two commitments were made by the State in a letter from the New Mexico Air Quality Bureau Chief to EPA dated September 29, 1988. Therefore, the requirements operative in the August 31, 1988, **Federal Register** proposed approval have been met and the SIP revision therefore meets final approval.

Comment: EPA received comments from another commenter which took the following position: Regulation 709 as submitted is not approvable by EPA. The commenter, Phelps Dodge Corporation, takes the position that the Administrator may approve a revision to a SIP only if he determines that it has been adopted after reasonable notice and hearing and that the State has the authority to carry out the plan. The commenter contends that the State was without authority to adopt AQCR 709 because the New Mexico Act, NMSA 74-2-5.B.(1) and 74-2-7.A., restricts the State to adopting regulations that are essentially identical to the federal program. It is Phelps Dodge's position that the State regulation imposes Part D permitting requirements upon sources in New Mexico that would not otherwise be subject to the federal program.

Specifically, Phelps Dodge argues that:

1. The regulation should not regulate minor sources.

2. The regulation should not require offsets.

3. New Mexico should delete the Total Suspended Particulate (TSP) standards and replace them with the new federal PM_{10} standards.

EPA's responses to these issues are as follows:

Response: Section 110(a)(2)(D) requires the State's SIP to include, among other things, a program to provide for the regulation of the modification, construction, and operation of any stationary source as necessary to assure that the NAAQS are achieved and maintained. 40 CFR 51.160, implementing this statutory requirement, requires the SIP to contain legally enforceable procedures enabling the State to determine whether the construction or modification will result in a violation of the control strategy or interfere with attainment or maintenance of the NAAQS. In addition, these legally enforceable procedures must include means by which the State will prevent construction or modification if there would be a violation of the control strategy or an interference with the attainment or maintenance of the NAAQS. The procedures must provide for the submission of information on the nature and amounts of emissions to be emitted and the location, design, construction, and operation. Approval of any construction or modification must not affect the responsibility of the owner or operator to comply with the control strategy. The types and sizes of facilities, buildings, structures, or installations which will be subject to permit review must be identified. The basis for determining which facilities will be subject to review must be discussed. The procedures must discuss the air quality data and modeling required to be used.

40 CFR 51.161 requires the legally enforceable procedures to include the requirement to provide opportunity for public comment on the information submitted by owners and operators. The public information must include the agency's analysis of the effect of construction or modification on ambient air quality, including the agency's proposed approval or disapproval. 40 CFR 51.116 (b), (c), and (d) describe the specifics for public availability.

The above SIP requirements are in addition to the Clean Air Act Part D permit requirements which require major sources and modifications to offset, meet LAER, demonstrate compliance of all major sources owned or operated by applicant in the State, and that there be implementation of the SIP in that nonattainment area.

It is the responsibility of the State to develop an appropriate combination of control strategies to demonstrate attainment and maintenance of the NAAQS. EPA's 40 CFR 51.160 and 51.161 do not set forth specifics for how to show that demonstration, only a general

conceptual framework. Since EPA has been silent on the specifics of implementation, the State is free to choose whatever type of requirements it wishes, including picking from the Part D controls (or the Part C), as long as the State's choices in the end assure that new construction and modification will not interfere with the attainment and maintenance of the NAAQS and will not result in a violation of the SIP's control strategy.

New Mexico is required, pursuant to section 110(a)(2)(D) to regulate construction and modification of all sources as necessary to assure attainment and maintenance. 40 CFR 51.160 requires the types and sizes to be identified. New Mexico has chosen to require permits for all sources rather than establishing a cutoff and demonstrating how those sources not subject to permit review would not interfere with attainment and maintenance of the NAAQS.

New Mexico has chosen to require offsets. What easier and better way is there to ensure that all future stationary source growth will not interefere with attainment and maintenance of the NAAQS?

In response to the TSP/PM_{10} comment, this action today addresses only the permit review regulations submitted to satisfy a 1979 SIP condition; the PM_{10} or TSP SIPS are not before EPA in this action.

In conclusion, the State's rules apply to sources that are required to be covered under the federal program. The State's rules are no more stringent than the federal rules. The issue of deleting the TSP regulations and replacing them with new PM_{10} regulations is not addressed in this notice; it will be addressed when EPA is reviewing the PM_{10} SIP submittal.

Final Action

EPA approves New Mexico's SIP revision submittals of November 5, 1985, August 19, 1988, and September 29, 1988, addressing the conditional approval, which include AQCR 709, Permits—Nonattainment Areas. The Part D SIP condition found at 40 CFR 52.1628(a), prohibiting construction and modification in the State of New Mexico (other than Bernalillo County), is hereby revoked.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Incorporation by Reference (IBR) Certification

Note: Incorporation by reference of the State Implementation Plan for the State of New Mexico was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: February 20, 1990.

William K. Reilly,

Administrator.

40 CFR part 52, subpart GG, is amended as follows.

PART 52—[AMENDED]

Subpart GG—New Mexico

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1620 is amended by adding paragraph (c)(40) to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

(40) On November 5, 1985, the Governor of New Mexico submitted Air Quality Control Regulation 709, Permits-Nonattainment Areas, as adopted by the New Mexico Environmental Improvement Board on July 26, 1985, and effective on August 25, 1985. On August 19, 1988, the Governor of New Mexico submitted revisions to Air Quality Control Regulation 709, Permits—Nonattainment Areas, as adopted by the New Mexico Environmental Improvement Board on July 8, 1988, and effective on August 31, 1988. These revisions were to Section G.3, H.4.(d), J.1.(b)(iv), and L.32. Regulation 709 establishes a program under which new major source and major modifications may be constructed in areas where a National Ambient Air Quality Standard (NAAQS) is being exceeded, without interfering with the continuing progress toward attainment of that standard. This regulation is part of New Mexico's New Source Review (NSR) program.

(i) Incorporation by reference.

(A) Incorporation of New Mexico Air Quality Control Regulation 709; adopted on July 26, 1985, effective August 25, 1985 and Revisions G.3; H.4.(d); J.1.(b)(iv); and L.32 adopted on July 8, 1988, effective August 31, 1988.

(ii) Additional Material.

(A) Letter dated September 29, 1988, from the New Mexico Air Quality Bureau Chief making commitments requested by EPA in the August 31, 1988, **Federal Register** Proposed Rulemaking (51 FR 33505).

3. Section 52.1628 is revised to read as follows:

§ 52.1628 Review of new sources and modifications.

(a) *Part D Conditional Approval.* The Bernalillo County carbon monoxide plan is conditionally approved on the condition that a revised section 20 "Permits" are submitted to EPA by October 1, 1984. In addition the Albuquerque-Bernalillo County Air Quality Control Board must continue their policy of not issuing permits to new or modified stationary sources, as specified in the Governor's letter of May 20, 1980, to fulfill the requirements of Part D.

[FR Doc. 90–12855 Filed 6–1–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 410

[BPD–327–F]

RIN 0938–AC07

Medicare Program; Medicare Coverage of Hepatitis B Vaccine for High and Intermediate Risk Individuals, Hemophilia Clotting Factors and Certain X-ray Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements section 2323 of Public Law 98–369, the Deficit Reduction Act of 1984, which provides Medicare coverage for hepatitis B vaccine for those individuals who are eligible for Medicare and at high or intermediate risk of contracting hepatitis B. This final rule defines those individuals who are at high or intermediate risk of contracting hepatitis B. It also implements section 2324 of Public Law 98–369, which provides coverage for the self-administration of hemophilia clotting factors and the items necessary for their administration to Medicare eligibles. In addition, this final rule clarifies regulations governing

Medicare coverage of certain x-ray services.

EFFECTIVE DATE: These regulations are effective July 5, 1990.

FOR FURTHER INFORMATION CONTACT: David Higbee, (301) 966-4636.

SUPPLEMENTARY INFORMATION:

I. Background

A. Summary of Proposed Rule

We published a proposed rule in the Federal Register on September 10, 1987 (52 FR 34244). That rule proposed to implement section 2323 of Public Law 98-369, the Deficit Reduction Act of 1984 (DRA), which provided Medicare coverage for hepatitis B vaccine for those individuals who are eligible for Medicare and at high or intermediate risk of contracting hepatitis B. The proposed rule solicited public comments on our definition of those individuals who are at high or intermediate risk of contracting hepatitis B. It also proposed to implement section 2324 of Public Law 98-369, which provides coverage for the self-administration of hemophilia clotting factors and the items necessary for their administration to Medicare eligibles. In addition, we proposed to clarify the regulations governing Medicare coverage of certain x-ray services.

B. Hepatitis B Vaccine

1. In the proposed rule, we cited the following legislative and regulation requirements pertaining to coverage of the hepatitis B vaccine.

- Section 1862(a)(1)(A) of the Social Security Act (the Act) excludes Medicare payments for items and services that are not reasonable and necessary for the diagnosis or treatment of illness or injury, or to improve the functioning of a malformed body member. Further, prior to the July 18, 1984, enactment of the DRA, section 1862(a)(7) of the Act specifically precluded payment for immunizations, except as allowed under section 1861(s)(10) of the Act for coverage of pneumococcal vaccine.
- Currently, regulations at 42 CFR 405.310(e) preclude payment for vaccinations or inoculations unless directly related to the treatment of an injury or direct exposure, such as antirabies treatment, tetanus antitoxin or booster vaccine, botulin antitoxin, antivenom sera, or immune globulin. Thus, in the past, Medicare program coverage has been limited by statute to treatment of hepatitis B patients, rather than prevention of hepatitis B.
- Section 2323 of the DRA amended section 1861(s)(10) of the Act to provide Medicare coverage for hepatitis B vaccine to the extent that it is reasonable and necessary for the prevention of illness for those individuals who are at high or intermediate risk of contracting hepatitis B. The statute requires the Secretary to determine, by regulations, criteria for identifying individuals who are at high or intermediate risk of contracting hepatitis B. For Medicare payment purposes, the hepatitis B vaccine may be administered—upon the order of a doctor of medicine or osteopathy—by qualified staff of home health agencies, skilled nursing facilities, ESRD facilities, hospital outpatient departments, HMO's, persons recognized under the "incident to physician's services" provision of the law (section 1861(s)(2)(A) of the Act), as well as doctors of medicine and osteopathy.

2. We identified (52 FR 34244) those individuals recommended by the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), and the manufacturer of hepatitis B vaccine as being at high and intermediate risk of contracting hepatitis B. We also stated our reasons for not accepting certain recommendations. We proposed (§ 410.63) to identify the following groups of individuals as being at high or intermediate risk of contracting hepatitis B.

High Risk Groups:

a. ESRD patients;

b. Hemophiliacs who receive Factor VIII or IX concentrates;

c. Clients of institutions for the mentally retarded;

d. Persons who live in the same household as a hepatitis B carrier;

e. Homosexual men;

f. Illicit injectable drug abusers; and

g. Pacific Islanders (that is, those Medicare beneficiaries who reside on Pacific Islands under U.S. jurisdiction, other than residents of Hawaii).

Intermediate Risk Groups:

a. Staff in institutions for the mentally retarded;

b. Workers in health care professions who have frequent contact with blood or blood-derived body fluids during routine work; and

c. Heterosexually active persons with multiple sexual partners (that is, Medicare beneficiaries having at least two or more documented episodes of sexually transmitted diseases within the preceding 5 years).

Persons in the above-listed groups would not be considered at high or intermediate risk of contracting hepatitis B if they have undergone a prevaccination screening and were found to be positive for antibodies to hepatitis B, such as the screening of ESRD patients who are routinely tested for hepatitis B antibodies as part of their continuing monitoring and therapy.

C. Hemophilia Clotting Factors

1. As noted in the proposed rule (52 FR 34246), section 2324 of the DRA added subparagraph (I) to section 1861(s)(2) of the Act to provide Medicare coverage for blood clotting factors for hemophilia patients competent to use those factors to control bleeding without medical or other supervision, and items related to the administration of those factors, subject to utilization controls deemed necessary by the Secretary for the efficient use of the factors.

2. We proposed to amend § 410.63(b) to provide for Medicare coverage of blood clotting factors for hemophilia patients competent to use those factors to control bleeding without medical or other supervision, and for items related to the administration of those factors. As required by section 1861(s)(2)(I) of the Act, we proposed (52 FR 34246) that the required utilization controls, deemed necessary for the efficient use of the factors, would be controls on the amount of clotting factors determined to be necessary to have on hand. These amounts would be determined by the carrier based on the historical utilization pattern or profile developed by the carrier for each patient.

D. Supervision of X-ray Services

1. We also explained in the proposal (52 FR 34246) that section 1861(s)(3) of the Act provides Medicare coverage for "diagnostic X-ray tests (including tests under the supervision of a physician, furnished in a place of residence used as the patient's home, if the performance of such tests meets such conditions relating to health and safety as the Secretary may find necessary)". The parenthetical language was added to the Act by section 134(a) of Pub. L. 90-248, the Social Security Amendments of 1967.

In accordance with the Social Security Amendments of 1965, regulations were previously published at what is now § 410.32, which require that in order to be covered, all x-rays must be performed under the direct supervision of a physician. The Social Security Amendments of 1967 mandate, however, that Medicare cover portable x-ray services even when furnished without direct physician supervision. Thus, the Secretary established an exception to the general provisions governing x-ray services that permits coverage of portable x-ray services when furnished under the general supervision of a physician. The term "direct supervision" means that the physician must be

present in the office suite and immediately available to provide assistance and direction throughout the time a technician is performing services. It refers to those diagnostic x-ray services that require the immediate personal supervision of a physician. "General supervision" occurs when x-ray procedures are performed by technicians without direct personal physician supervision. However, the service must be performed under the physician's overall direction and control.

On the advice of medical consultants, we limited coverage of x-ray services furnished under general physician supervision to skeletal films involving the extremities, pelvis, vertebral column or skull, and chest or abdominal films that do not involve the use of contrast media. At a later date, we recognized that this policy was not uniformly applied to owners of stationary x-ray equipment because the services that were covered when furnished by portable x-ray suppliers with general physician supervision still required direct physician supervision when furnished in a stationary x-ray unit.

2. We proposed to revise § 410.32 to provide Medicare coverage for certain diagnostic x-ray procedures performed by technicians under general physician supervision, if the training and general supervision of those technicians as well as the maintenance of the necessary equipment and supplies, are the continuing responsibility of the physician. We proposed that these procedures would be limited to skeletal films involving the extremities, pelvis, vertebral column or skull, and chest or abdominal films that do not involve the use of contrast media.

E. Routine Chest X-rays

We proposed a technical clarification of our regulations at § 405.310(a) concerning exclusions from coverage. Specifically, we proposed to clarify that Medicare does not cover routine chest x-rays performed for purposes other than treatment or diagnosis of a specific illness, symptom, complaint or injury.

II. Discussion of Public Comments on the Proposed Rule

We received 14 pieces of timely correspondence concerning suggested changes to Medicare coverage of hepatitis B vaccine, and hemophilia clotting factors. We did not receive any comments on x-ray services.

A. Hepatitis B Vaccine

1. *Comment:* A few commenters suggested revising the definition of "heterosexually active persons with multiple partners" to coincide with CDC's definition.

Response: The definition we used for including heterosexually active persons with multiple sexual partners in the intermediate risk group is CDC's definition.

2. *Comment:* A commenter suggested that we should broaden the definition of "workers in health care professions" to include workers who work outside the hospital who have frequent contact with blood or other infectious secretions.

Response: While we do not believe that we limited the definition to hospital workers, we have clarified in § 410.63(a)(2)(ii) that the definition includes workers who work outside of a hospital and have frequent contact with blood or other infectious secretions.

3. *Comment:* One commenter suggested that babies born to disability insurance beneficiaries may require treatment for hepatitis B exposure.

Response: We have not adopted this comment. The hepatitis B vaccine is restricted to Medicare beneficiaries, and Medicare eligibility rules effectively preclude newborns from becoming beneficiaries.

4. *Comment:* One commenter disagreed with our decision not to include immigrants and refugees from areas of high hepatitis B endemicity in the Medicare high risk group to receive vaccine. The commenter did not believe that HCFA should assume that such persons would be covered by virtue of being in the same households as carriers, or have access to vaccination services through other programs.

Response: We did not include immigrants and refugees from areas of high hepatitis B endemicity in the Medicare high risk group because such persons would have completed their period of incubation before they become Medicare beneficiaries. (To be eligible for Medicare Part B benefits, immigrants and refugees must be in the United States for a continuous period of 5 years immediately preceding the first month of Medicare entitlement.) However, if Medicare beneficiaries (whether immigrants or refugees or not) were exposed to carriers living in their household, they would then be in the high risk group and eligible for the vaccine as a Medicare benefit. Our statement that immigrants and refugees might receive services from other programs was to note that there were sources of vaccine for individuals who are not yet eligible for Medicare coverage.

5. *Comment:* A commenter suggested that health care workers who have frequent contact with blood or blood-derived body fluids be listed under high risk rather than intermediate risk, although there may be relatively few who would be Medicare beneficiaries while they are working.

Response: We have not adopted this comment. As stated in the proposed rule (52 FR 34245), we will follow many of the recommendations of CDC, FDA, and the manufacturer of hepatitis B vaccine. CDC recommended, and we have accepted their recommendation that health care workers who have frequent blood contact should be placed in the intermediate risk category.

6. *Comment:* One commenter believes that residents of group homes for the developmentally disabled should be included in the high risk group.

Response: Generally, institutions for the mentally retarded are for persons with mental retardation and persons with related conditions. Thus, residents of these institutions include not only persons with mental retardation but also individuals with other developmental disabilities. Individuals with mental retardation or other developmental disabilities who are residents of small institutions for the mentally retarded, sometimes referred to as group homes, would be considered high risk individuals under the category of "clients of institutions for the mentally retarded".

7. *Comment:* Two commenters stated that there is a sufficient supply of hepatitis B vaccine to be administered to those individuals falling into the high or intermediate risk categories.

Response: We agree with the commenters. In the proposed rule (52 FR 34245), we mentioned that there was a limited supply of the hepatitis B vaccine, but we have been assured by the manufacturer that there is a sufficient supply of vaccine.

8. *Comment:* A commenter suggested that international travelers be included in the intermediate risk group.

Response: We have not accepted this comment. This category was not included in the original recommendations received from CDC and the manufacturer. We have had further discussions with CDC and have determined that inclusion of this category is inappropriate since this group is too difficult to define and its inclusion would create too many administrative problems.

9. *Comment:* A commenter suggested that any classroom employee who works with mentally retarded persons should be offered immunization routinely.

Response: We have accepted this comment and amended the regulation accordingly. Staff in institutions for the mentally retarded include those who teach residents of institutions for the mentally retarded. Thus, those who teach residents of institutions for the mentally retarded, regardless of whether these classes are conducted at the institution or offsite, would be considered to be part of the same intermediate risk group as staff in these institutions.

10. *Comment:* A commenter stated that efforts to move hepatitis B carrier clients from institutions to group homes have been largely ineffective, since most group homes are reluctant to accept known carriers for admission because they have no way to finance employee immunization. The commenter thinks it would be more cost effective to immunize all employees and then move clients into cheaper, less restrictive programs.

Response: We cover staff under the intermediate risk category if they are eligible for Medicare. We do not have authority to cover employees who are not eligible for Medicare. Furthermore, we have no statutory authority to require that clients be moved from institutions to group homes.

11. *Comment:* One commenter was concerned that we proposed to restrict vaccination to highly infected individuals. The commenter stated that since immunization is ineffective in this group of persons, it would be inappropriate.

Response: We agree with the commenter. In error, we had stated that the vaccine would be restricted to highly infected individuals. We realize that the vaccine is ineffective in this group of persons. However, we had mentioned this restriction only in the preamble of the proposed rule (52 FR 34245). The regulation text does not mention restricting the vaccine to highly infected individuals.

12. *Comment:* A commenter stated that prevaccine testing is not routine screening and Medicare coverage of such testing would be appropriate and cost effective.

Response: We disagree with the commenter. The statute, under section 1861(s)(10)(B), grants the Secretary authority to cover only hepatitis B vaccine and its administration; it does not allow the Secretary to cover prevaccination testing.

13. *Comment:* A commenter suggested limiting preliminary screenings to employees in a high risk group. When an employee falls into this category, the commenter suggests a single screening that determines the presence of hepatitis B vaccine-antibody, rather than an entire battery of tests.

Response: We are unable to accept this comment. Again, we have no statutory authority to cover routine screening.

14. *Comment:* A commenter stated that persons with known protective antibodies should not be covered and receive payment for hepatitis B vaccine.

Response: We agree with the commenter. We stated in the preamble of the proposed rule (52 FR 34245) that we would not cover and pay for hepatitis B vaccine if laboratory evidence proves an individual positive for antibodies to hepatitis B.

B. Hemophilia Clotting Factor

1. *Comment:* A commenter stated that payment for the self-administration of hemophilia clotting factors should be provided only if the patient has been trained specifically to use the factors.

Response: We stated in the proposal (52 FR 34246) that Medicare coverage of blood clotting factors to control bleeding for hemophilia patients would be provided for those individuals who are specially trained and competent to use these factors without medical or other supervision.

2. *Comment:* Several commenters urged that we establish yearly utilization screens for home therapy blood supplies based upon a three-month average profile plus a three-month reserve at home.

Response: We agree with the commenters that procedures must be established to assure that utilization controls imposed on payment and coverage of anti-hemophilic clotting factors not only take into account historical utilization profiles, but also consider the need for a reserve supply to be kept in the home in the event of emergency or other unforeseen circumstances. We will issue instructions to carriers to require them to follow this policy.

3. *Comment:* A few commenters stated that the definition of "necessary utilization controls for efficient use of factors" should be determined by the designated treatment centers that regularly monitor and follow patients with hemophilia.

Response: We do not agree with the commenters. However, we will amend the carrier operating instructions (Medicare Carriers Manual (HCFA Pub. 14–3)) to emphasize the seriousness of having adequate clotting factors available and allowing for emergency situations that may be life threatening. We will note that the carriers must contact Comprehensive Hemophilia Diagnostic and Treatment Centers for data, and that careful consideration is to be given to treatment center data and recommendations.

4. *Comment:* A commenter suggested that shipping three to six-month supplies of blood clotting factors is more cost effective than having multiple shipments.

Response: We do not agree with the commenter. Distributing a three to six-month supply of blood clotting factors could lead to stockpiling and make it more difficult for the carrier to monitor actual usage. Our policy will provide for an adequate reserve of blood clotting factors. We have clarified in § 410.63(b) that the amount of clotting factors covered is determined by the carrier based on the historical utilization pattern or profile developed by the carrier for each patient, and based on consideration of the need for a reasonable reserve supply to be kept in the home in the event of emergency or unforeseen circumstance.

III. Provisions in the Final Rule

Based on our analysis of the comments, we are adopting the provisions set forth in the proposed notice with the following exceptions:

- We have clarified the definition of workers in health care professions as noted in the "Discussion of Public Comments" (section II. A. 2. above).
- We have amended the regulations text in § 410.10(q) to more closely conform to the statute that allows coverage of blood clotting factors only for those hemophilia patients competent to use the blood clotting factor without medical or other supervision:
- We are retaining language currently in § 410.32(a)(1) that addresses who is a "physician" and that states that diagnostic X-ray services will be covered if they are furnished by a radiology department that meets the requirements for hospital radiology departments as set forth in § 482.26. This portion of the current regulations was inadvertently omitted in the proposed notice that was published in the Federal Register on September 10, 1987 (52 FR 34248).

The following changes are being made as discussed in the proposed rule:

- We are amending § 405.310(a) to clarify that routine chest x-rays are excluded from Medicare coverage.
- We are amending §§ 405.310 (e) and (k)(4) to provide Medicare coverage for the administration of hepatitis B vaccine to the extent that it is reasonable and necessary for the prevention of illness.

- We are amending § 410.10 to add, as services included under "medical and other health services", hepatitis B vaccine and blood clotting factors for hemophilia patients.
- We are amending § 410.29(a) to specify that coverage of hemophilia clotting factors is an exception to the Medicare policy of not covering drugs or biologicals that can be self-administered.
- We are amending § 410.32(a) to provide Medicare part B coverage for certain diagnostic x-ray procedures performed by technicians without direct personal physician supervision.
- We are adding a new § 410.63 to include criteria for identifying those individuals at high or intermediate risk of contracting hepatitis B, and to provide Medicare coverage of blood clotting factors for hemophilia patients competent to use those factors to control bleeding without medical or other supervision, and for items related to the administration of those factors.

IV. Regulatory Impact Statement

A. Executive Order 12291

Executive Order (E.O.) 12291 requires us to prepare and publish a final regulatory impact analysis for any final regulation that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

As stated in the proposed rule, we estimate that coverage of hepatitis B vaccine under section 2323 of Public Law 98-369 will increase Medicare expenditures but not by a significant amount. We are unable to isolate the effects of this rule from the effects of the statute since some amount of coverage is required by the Act.

Regarding Medicare coverage of self-administered hemophilia clotting factors, the National Hemophilia Foundation estimates that of approximately 20,000 hemophiliacs in the United States, only about 1,300 are eligible for Medicare. There may be a slight net savings resulting from this new coverage as a result of fewer complications leading to hospitalization and lower consumption of blood products. Additional benefits may accrue to beneficiaries due to reductions in unemployment and absenteeism, and fewer out-of-pocket medical expenses. However, because of the small number of persons affected, we believe the total effects will be negligible.

The revisions of requirements for x-ray services should not result in any changes that would have an economic impact.

Because the annual economic impact of these provisions will not exceed $100 million, and because no other threshold criterion under E.O. 12291 will be exceeded, this rule is not considered a major rule and a regulatory impact analysis is not required. No public comments were received regarding the regulatory impact statement in the proposed rule.

B. Regulatory Flexibility Act

In addition, we generally prepare a final regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final regulation will not have a significant economic effect on a substantial number of small entities. For purposes of the RFA, all facilities treating Medicare patients identified at high or intermediate risk of hepatitis B infection are considered small entities, as are owners and operators of stationary x-ray units.

The effects of increased coverage for vaccinations will be felt primarily by facilities furnishing dialysis services, since this is the largest patient population at high risk and health professionals treating these patients will be included in the intermediate risk group. While we conclude that program payments to these facilities will be increased and that some efficiencies will be realized, we do not believe that the payments or types of savings associated with the vaccinations will represent a significant portion of these facilities total program payments.

Regarding coverage of hemophilia clotting factors, the number of beneficiaries affected (approximately 1,300) will be small and, therefore, the impact on providers or suppliers will be negligible. As noted above, the economic effects of the clarification on coverage of x-ray services will also be negligible.

For the above reasons, we have determined, and the Secretary certifies, that this rule will not have a significant economic impact on a substantial number of small entities. We have, therefore, not prepared a regulatory flexibility analysis.

V. Paperwork Reduction Act

This rule contains no information collection requirements. Therefore, it does not come under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501.)

List of Subjects

42 CFR Part 405

Administrative practice. and procedure, Certification of compliance, Clinics, Cost-based reimbursement, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reasonable charges, Reporting requirements, Rural areas, Prospective payment system, X-rays.

42 CFR Part 410

Medical and other health services, Medicare.

I. 42 CFR part 405, subpart C is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

1. The authority citation for subpart C continues to read as follows:

Authority: Secs. 1102, 1815, 1833, 1842, 1861, 1862, 1866 1870, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l. 1395u, 1395x, 1395y, 1395cc. 1395gg, 1395hh, and 1395pp), and 31 U.S.C. 3711.

2. In § 405.310 the introductory language is republished; paragraphs (a)(1) and (e) are revised; and a new paragraph (k)(4) is added to read as follows:

§ 405.310 Particular services excluded from coverage.

The following services are excluded from coverage.

(a) *Routine physical checkups such as—*

(1) Examinations (including, routine chest x-rays) performed for a purpose other than treatment or diagnosis of a specific illness, symptom, complaint, or injury; or

* * * * *

(e) *Immunizations, except for—*

(1) Vaccinations or inoculations directly related to the treatment of an injury or direct exposure such as

antirabies treatment, tetanus antitoxin or booster vaccine, botulin antitoxin, antivenom sera, or immune globulin;

(2) Pneumococcal vaccinations that are reasonable and necessary for the prevention of illness; and

(3) Hepatitis B vaccinations that are reasonable and necessary for the prevention of illness for those individuals, as defined in § 410.63(a) of this chapter, who are at high or intermediate risk of contracting hepatitis B.

* * * * *

(k) *Any services that are not reasonable and necessary for one of the following purposes:*

* * * * *

(4) In the case of hepatitis B vaccine, for the prevention of illness for those individuals at high or intermediate risk of contracting hepatitis B. (Section 410.63(a) of this chapter sets forth criteria for identifying those individuals.)

* * * * *

II. 42 CFR part 410, subpart B is amended as set forth below:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

1. The table of contents for part 410 is amended by adding a new § 410.63 and the authority citation continues to read as follows:

Subpart B—Medical and Other Health Services

* * * * *

Sec.

410.63 Exceptions to certain exclusions from coverage.

* * * * *

Authority: Secs. 1102, 1832, 1833, 1835, 1861 (r), (s) and (cc), 1862(a), 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395k, 1395l, 1395n, 1395x (r), (s) and (cc), 1395y(a), 1395hh, and 1395rr).

2. In § 410.10, the introductory language is republished and new paragraphs (p) and (q) are added to read as follows:

§ 410.10 Medical and other health services: Included services.

Subject to the conditions and limitations specified in § 410.12, "medical and other health services" includes the following services:

* * * * *

(p) Hepatitis B vaccine.

(q) Blood clotting factors for hemophilia patients competent to use these factors without medical or other supervision.

3. In § 410.29, the introductory language is republished and paragraph (a) is revised to read as follows:

§ 410.29 Limitations on drugs and biologicals.

Medicare part B does not pay for the following:

(a) Except as provided in § 410.28(a) for outpatient diagnostic services and § 410.63(b) for blood clotting factors, any drug or biological that can be self-administered.

* * * * *

4. In § 410.32, paragraph (a) is revised to read as follows:

§ 410.32 Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions.

(a) *Diagnostic x-ray services*—(1) *Basic rule.* Except as provided in paragraphs (a)(2) and (a)(3) of this section, diagnostic x-ray tests are covered only if performed under the direct supervision of a physician who is a doctor of medicine, osteopathy, dental surgery, dental medicine, or podiatric medicine, or by a radiology department that meets the requirements for a hospital radiology department set forth at § 482.26 of this chapter. The term "direct supervision" means that the physician must be present in the office suite and immediately available to provide assistance and direction throughout the time a technician is performing services.

(2) *Portable x-ray services.* Portable x-ray services furnished in a place of residence used as the patient's home, are covered if the following conditions are met:

(i) These services are furnished under the general supervision of a physician. "General supervision" occurs when x-ray procedures are performed by technicians without direct physician supervision. However, the service must be performed under the physician's overall direction and control.

(ii) The supplier of these services meets the requirements set forth in part 405, subpart N of this chapter.

(3) *Diagnostic procedures.* Diagnostic x-ray procedures performed by technicians under general physician supervision are covered, if—

(i) The general supervision and training of the technicians, as well as the maintenance of the necessary equipment and supplies, are the continuing responsibility of the physician; and

(ii) The procedures are limited to skeletal films involving the extremities, pelvis, vertebral column or skull, and chest or abdominal films that do not involve the use of contrast media.

* * * * *

6. A new § 410.63 is added to read as follows:

§ 410.63 Exceptions to certain exclusions from coverage.

Notwithstanding the exclusion from coverage of vaccines (see § 405.310 of this chapter) and self-administered drugs (see § 410.29), the following services are included as medical and other health services covered under § 410.10, subject to the specified conditions:

(a) *Hepatitis B vaccine: Conditions.* Effective September 1, 1984, hepatitis B vaccinations that are reasonable and necessary for the prevention of illness for those individuals who are at high or intermediate risk of contracting hepatitis B as listed below:

(1) *High risk groups.* (i) End-Stage Renal Disease (ESRD) patients;

(ii) Hemophiliacs who receive Factor VIII or IX concentrates;

(iii) Clients of institutions for the mentally retarded;

(iv) Persons who live in the same household as a hepatitis B carrier;

(v) Homosexual men;

(vi) Illicit injectable drug abusers; and

(vii) Pacific Islanders (that is, those Medicare beneficiaries who reside on Pacific islands under U.S. jurisdiction, other than residents of Hawaii).

(2) *Intermediate risk groups.* (i) Staff in institutions for the mentally retarded and classroom employees who work with mentally retarded persons;

(ii) Workers in health care professions who have frequent contact with blood or blood-derived body fluids during routine work (including workers who work outside of a hospital and have frequent contact with blood or other infectious secretions); and

(iii) Heterosexually active persons with multiple sexual partners (that is, those Medicare beneficiaries who have had at least two documented episodes of sexually transmitted diseases within the preceding 5 years).

(3) *Exception.* Individuals described in paragraphs (a) (1) and (2) of this section are not considered at high or intermediate risk of contracting hepatitis B if they have undergone a prevaccination screening and have been found to be currently positive for antibodies to hepatitis B.

(b) *Blood clotting factors.* Effective July 18, 1984, blood clotting factors to control bleeding for hemophilia patients competent to use these factors without medical or other supervision, and items related to the administration of those factors. The amount of clotting factors covered under this provision is determined by the carrier based on the historical utilization pattern or profile developed by the carrier for each patient, and based on consideration of

the need for a reasonable reserve supply to be kept in the home in the event of emergency or unforeseen circumstance.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 10, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: April 19, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-12845 Filed 6-1-90; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 217 and 219

[FRA Docket No. RSOR-6, Notice No. 31]

RIN 2130-AA43

Alcohol/Drug Regulations; Miscellaneous Technical Amendments and Corrections; Extension of Compliance Date for Revised Specimen Collection Procedures

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA issues miscellaneous technical amendments and corrections to its regulations on control of alcohol and drug use in railroad operations, including reporting requirements. The rule postpones the requirement for compliance with revised post-accident testing specimen collection procedures, announces a new name and mailing address for the designated post-accident testing laboratory, and makes corrections and clarifications to the regulatory text as recently revised.

DATES: The final rule amendments are effective on June 4, 1990, except—

(i) The amendment to Appendix B of 49 CFR part 219 (regarding a new address for the designated post-accident testing laboratory) is effective on August 6, 1990; and

(ii) Revised specimen collection procedures for mandatory post-accident toxicological testing published December 26, 1989, (54 FR 53238) (49 CFR 219.205, 219.207(d) and Appendix C to 49 CFR part 219), previously ordered to become effective on June 1, 1990, shall instead become effective on August 6, 1990 (but earlier compliance is authorized, provided the toxicology kit is shipped to the current lab location).

ADDRESSES: Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel (RRC-30), FRA, Room 8201, 400 7th Street, SW., Washington, DC 20590.

Communications regarding replacement of toxicology kits should be sent to Dr. Sam Holley, Alcohol/Drug Program Manager (RRS-10), Office of Safety, FRA, Washington, DC 20590. New toxicology kits may be purchased from CompuChem Laboratories (Attention: Special Division), 3308 Chapel Hill/Nelson Highway, Research Triangle Park, North Carolina 27709. Telephone: (919) 248-6888. On and after August 6, 1990, toxicology kits containing post-accident testing specimens will be submitted to that address.

FOR FURTHER INFORMATION CONTACT: Dr. Sam Holley, Alcohol/Drug Program Manager (RRS-10), Office of Safety, FRA, Washington, DC 20590 (Telephone: (202) 366-0501) or Grady Cothen, Special Counsel (RCC-4), FRA, Washington, DC 20590 (Telephone: (202) 366-0767).

SUPPLEMENTARY INFORMATION: On December 27, 1989, FRA published in the Federal Register a final rule revising its regulations on control of alcohol and drug use in railroad operations (54 FR 53238) (amending 49 CFR part 219 and selected portions of parts 217 and 225). Certain typographical errors were contained in the printed version. This document makes those corrections by reference to the Federal Register text. In addition, FRA corrects certain errors in the document as issued by FRA and makes one clarifying amendment to resolve a perceived ambiguity that has been noted during implementation.

This notice also allows additional time for compliance with revised specimen collection procedures for mandatory post-accident testing, provides information regarding replacement and purchase of toxicology kits, and announces a prospective change in the laboratory name and mailing address.

Post-Accident Specimen Collection Procedures

Postponement of Implementation

In issuing the final rule published on December 27, 1989, FRA specified that revised specimen collection procedures for mandatory post-accident toxicological testing (49 CFR part 219, subpart C and Appendix C) would become effective on June 1, 1990. That date was set because of the need to produce and distribute replacement materials, instructions, and forms for the toxicology kits that are used in the specimen collection process. During the period of delay, existing materials, instructions, and forms were to be utilized. FRA has been working through administrative channels and its contract laboratory to provide for the necessary change-out of kit contents. Although preparations for this process are well underway, it is not yet complete. Without the necessary materials, instructions, and forms, railroads will not be able to comply with the revised specimen collection procedures. Therefore, FRA has determined that additional time will be required to complete this process. Accordingly, the deadline for compliance with the revised procedures is extended to August 6, 1990. Earlier compliance is authorized as toxicology kit contents are replaced, but care should be taken to send specimens to the current laboratory location (which will not change until August 6, 1990). Until the new compliance date, railroads have the option of complying with previous procedures or the new procedures (assuming availability of the materials, instructions, and forms).

At the time the post-accident testing program was initially implemented, FRA made available to the railroads toxicology kits meeting uniform specifications for a charge reflecting the cost to the government of acquiring and assembling the pertinent materials. Maintenance of such kits at suitable locations across the rail system is the duty of the railroad. Railroads purchased well over a thousand kits, most of which have been maintained either through periodic replacement of blood tubes and mailing labels (on a piecemeal basis) or through replenishment of materials when the kit is submitted with specimens.

Implementation of the revised specimen collection procedures published in the December 27, 1989 notice will require that virtually all of the kit materials and all of the forms and instructions be replaced. In order to ensure that kits are current and complete, FRA has determined that it is most efficient to provide entirely new units. Accordingly, FRA will provide to railroads currently holding toxicology kits an equal number of replacement kits meeting the revised specifications. Because the old kits do not contain articles of sufficient value to warrant the cost of shipping and processing, those kits will be retired by the railroads.

In order to make an orderly replacement of kits, it will be necessary to verify the current number of kits in the possession of each railroad. Although FRA has records regarding the

units initially sold to individual railroads, those records do not reflect the current status of the units (lost, retired, or available), their physical location, or the appropriate current mailing address for replacement kits. Accordingly, to receive replacement kits a railroad must provide the following information to the Alcohol/Drug Program Manager (RRS–10), FRA, 400 Seventh Street, SW., Washington, DC:

- Total number of kits currently held by the railroad; and
- For each kit (or group of kits), the address to which the replacement kits should be sent.

The laboratory will send new tox kits on a one-for-one replacement basis (including outer shipping container) to locations the railroads designate. A railroad may request the replacement kits be sent to a central location in bulk quantities; however, each kit must have a registry number (assigned by FRA) and address for where the kit is to be returned upon use following an accident or for replacement of items to keep the kit contents current. (To the extent requests are made for "replacement" of kits exceeding the number shown in FRA records as having been purchased by the railroad, FRA will require documentation of the number of kits held by the railroad.)

There will be no cost to the railroad for one-for-one replacement of tox kits. However, requests for replacement must be received by FRA by June 18, 1990, to ensure adequate time for the railroad to receive the new kits.

A railroad may purchase additional new tox kits at the price of $18.50 each. To purchase these kits, the railroad must submit an order separately to the laboratory, including payment in advance (checks payable to the Federal Railroad Administration) and specifying the address to which the kit should be sent and where the kit is to be returned upon use following an accident.

As information, all new kits provided, whether new purchases or in replacement of prior units, will have new identifying numbers in a format permitting FRA to track the units on a current basis. Railroads may wish to adjust their tracking systems to record the new identification numbers.

In order to meet the revised specimen collection procedures, the new toxicology kits shall be constituted as follows:

1. Shipping container suitable for transporting biological materials.

2. Five individual cardboard boxes for each donor's specimens, within each which shall be contained—

a. A locking-type clear plastic bag containing the following:

b. Absorptive soft foam cut to fit the bottom of the individual box and sculpted to securely hold two blood tubes and a urine specimen bottle;

c. Two fresh vacuum blood tubes, grey stopper, containing preservative and anticoagulant; and

d. One fresh single-use urine specimen bottle, capacity in excess of 60 ml, with fill line indicated at 60 ml and temperature-sensitive tape, pre-sealed.

3. A locking-type clear plastic bag containing the following:

a. One full set of instructions provided by the FRA, including instructions for the railroad representative, employee (5 copies), medical facility, blood collector, urine collector, and medical examiner (fatality only).

b. One form 6180.73 (revised 1/90) (five-part manifold).

c. Five forms 6180.74 (revised 2/90) (six-part manifold with attached seals for blood, urine and individual box, each bearing the same identification number pre-printed on the 6180.74) (Control Form).

d. Five packets blue dye (for toilet water).

e. One mailing label addressed to laboratory.

f. One each indelible marker, ball point pen, and roll of plastic tape to seal toxicology kit.

4. Five pre-wrapped specimen collection containers.

The FRA Field Manual (which will be republished in the near future to reflect the extensive regulatory changes of the past two years) is deemed amended to reflect the forgoing. A railroad wishing to purchase materials separately and assemble its own kits may obtain detailed specifications by writing to the Office of Safety, FRA, at the address provided above.

Each replacement and newly purchased kit will contain, in addition to specimen collection materials, complete instructions for collection consistent with Appendix C to part 219 and revised forms 6180.73 and 6180.74. Form 6180.74 has been extensively revised to parallel the custody and control documentation under 49 CFR part 40, the Transportation Workplace Drug Testing Procedures. Each such form has attached label/seals for identifying and securing specimens that bear the same unique identifying number that appears on the form. The available quantity of the new forms is fully adequate to stock toxicology kits; however, FRA is not able to provide large numbers of additional copies or bulk shipments to requestors.

Older versions of the tox kits and their contents will not be in compliance with the FRA rule if used subsequent to the implementation date and should be discarded at that time.

Technical and Clarifying Amendments

FRA makes several technical and clarifying amendments to its regulations that correct or amplify provisions adopted in the December 27, 1990 final rule.

Section 219.104(e)(1) is amended to correct the cross-reference to breath analysis procedures from subpart C to subpart D.

Section 219.203 is revised to clarify FRA's intent in issuing the recent final rule amendment with respect to recall of employees for mandatory post-accident testing. FRA has already experienced one event in which the railroad misunderstood the intent of a limited exception to the new provision barring recall of employees for post-accident testing. FRA believes that expressly stating the conditions under which the narrow exception may come into play will assist railroads seeking to comply with the rule. Accordingly, FRA has added new paragraph (b)(4)(i) and has renumbered the existing subparagraphs accordingly (i.e., (b)(4) (ii), (iii)).

The new language explains that recall may occur only where the employee could not be retained in duty status because the employee marked off under normal procedures before being contacted by the supervisor to remain available. Employees who may be subject to testing because of their apparent involvement in the circumstances of the accident/incident are normally required to remain on duty pending completion of the determination whether the event qualifies for testing and whether the particular employee is required to provide specimens. However, employees such as train order operators, signal maintainers and others may perform their duties at a location remote from the accident/incident site and may even be unaware that an accident/incident has occurred. Where such an employee goes off duty in the normal manner after an accident/incident has occurred and it is determined that there is a clear probability that the employee played a major role in the cause or severity of the accident, then the employee is to be recalled.

FRA emphasizes that train and engine crews and other employees within the immediate supervision of the responding railroad representative, and other employees who can be contacted before going off duty, shall be retained in duty

status until the testing determinations are made. Thereafter, these employees are not to be recalled. To establish any other rule would result in inappropriate results. For instance, it would be inappropriate to recall employees for testing several days later because close examination of a damaged locomotive indicated repair costs in excess of the qualifying event threshold.

The rule seeks to encourage prompt, good faith determinations with respect to post-accident testing and to give those decisions a strong presumption of finality. FRA hopes that the clarifying amendment will assist the railroads in complying with the intent of this provision.

Section 219.303, which relates to reasonable cause breath alcohol tests, is corrected by removing language referring to provisions governing urine alcohol analysis. Urine alcohol tests are no longer permitted under subpart D, and the language should have been deleted prior to publication of the final rule on December 27, 1989.

Appendix A, the civil penalty schedule, is amended to clarify a reference to testing safeguards. The text in the penalty entry for § 219.701 referred to specific provisions of § 219.701 without explaining that they are illustrative. The revised language notes that these are examples.

Appendix B is amended, effective August 6, 1990, to update the reference to FRA's designated post-accident testing laboratory. The designated laboratory has elected to move this phase of its toxicology operations to the certified laboratory location in Research Triangle Park, North Carolina, from the Sacramento, California, location. It is hoped that transfer of the laboratory operations coincident with implementation of the revised specimen collection procedures (which involve use of the new toxicology kit design) will provide for a smooth transition, since the new kits will contain updated mailing labels.

Appendix C is revised in one small procedural detail to parallel the printed instructions that have been prepared for each toxicology kit. The printed label set will be placed at the back of the Control Form manifold, rather than at the front, necessitating a revision in the instruction to the collector with respect to provision of the social security or employee I.D. number.

Section 217.13, which addresses annual reporting of alcohol/drug data under the regulations for Railroad Operating Rules, is amended to correct a publication error by FRA and to eliminate redundant language.

Regulatory Procedures

The corrections to regulatory text made by this final rule are editorial in nature and do not impose additional burdens on any party.

With respect to delay in effective date of new post-accident testing specimen collection procedures, FRA finds that notice and opportunity for comment are not necessary because the effect of the amendments is to provide additional time for compliance. FRA also finds that providing such notice would be contrary to the public interest because delay would require compliance with procedures for which necessary materials are not currently available to the regulated entities. FRA finds that there is good cause for making this amendment effective less than 30 days from publication, since its effect is to provide necessary, additional time for compliance.

This rule has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule under Executive Order 12291 nor a "significant" rule as defined under DOT policies and procedures. The amendments contained in this final rule do not have any significant paperwork, Federalism or economic impact. To the extent any such impact exists, the amendments will lessen regulatory burdens by increasing the time available to comply with regulations previously issued. Because the amendments do not have any significant economic impact, FRA has not prepared a regulatory evaluation. It is certified that this final rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 60 *et seq.*). As noted in the December 27 publication, FRA is submitting the information collection requirements contained in that notice to OMB for review under the Paperwork Reduction Act.

List of Subjects

49 CFR Part 217

Railroad operating rules, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 219

Control of alcohol and drug use, Railroad safety.

Corrections

In FR Doc. 89-29910, beginning on page 53238 in the issue of Wednesday, December 27, 1989 make the following corrections:

§ 219.23 [Corrected]

1. On page 53262, third column, first line, the title of § 219.23, "Notice of employees" should have read "Notice to employees".

§ 219.203 [Corrected]

2. On page 53265, second column, fifth line from the bottom, § 219.203(d)(2) the telephone number "880-424-0201" should have read "800-424-0201".

3. On page 53268, third column, § 219.301, paragraph (f)(4) is correctly revised to read as follows:

§ 219.301 Testing for reasonable cause.

* * * * *

(f) * * *

(4) As used in this section a "responsible railroad supervisor" means any responsible line supervisor (e.g., a trainmaster or road foreman of engines) or superior official in authority over the employee to be tested.

* * * * *

Appendix B—[Corrected]

(4) On page 53276, the first telephone number contained in Appendix B to part 219, "(916) 023-0840", should have read "(916) 923-0840".

Amendments

Therefore, in consideration of the foregoing, parts 217 and 219, title 49, Code of Federal Regulations is amended as follows:

PART 219—[AMENDED]

1. The authority citation for part 219 continues to read as follows:

Authority: 45 U.S.C. 431, 437, and 438, as amended; Pub. L. No. 100-342; and 49 CFR 1.49(m).

§ 219.104 [Amended]

2. Paragraph (e)(1) of § 219.104 is amended by removing "subpart C of this part" and by inserting in its place "subpart D of this part".

3. Section 219.203 is amended by revising paragraph (b)(4) to read as follows:

§ 219.203 Responsibilities of railroads and employees.

* * * * *

(b) * * *

(4) Covered employees who may be subject to testing under this subpart shall be retained in duty status for the period necessary to make the determinations required by § 219.201 and this section and (as appropriate) to complete the sample collection procedure. An employee may not be recalled for testing under this subpart if that employee has been released from

duty under the normal procedures of the railroad, except that an employee shall be immediately recalled for testing if—

(i) The employee could not be retained in duty status because the employee went off duty under normal carrier procedures prior to being contacted by a railroad supervisor and instructed to remain on duty pending completion of the required determinations (e.g., in the case of a dispatcher or signal maintainer remote from the scene of an accident who was unaware of the occurrence at the time the employee went off duty);

(ii) The railroad's preliminary investigation (contemporaneous with the determination required by § 219.201 of this subpart) indicates a clear probability that the employee played a major role in the cause or severity of the accident/incident; and

(iii) The accident/incident actually occurred during the employee's duty tour.

An employee who has been transported to receive medical care is not released from duty for purposes of this section. Nothing in this section prohibits the subsequent testing of an employee who has failed to remain available for testing as required (i.e., who is absent without leave); but subsequent testing does not excuse such refusal by the employee timely to provide the required specimens.

* * * * *

§ 219.303 [Amended]

4. Section 219.303 is amended by placing a period following "criteria of paragraph (a) of this section" in the last sentence of paragraph (d)(1) and by removing the remainder of that sentence.

Appendix A—[Amended]

5. Appendix A is amended by revising the text in the entry for § 219.701 to read as follows: "Standards for urine drug testing (e.g., use of uncertified lab or other violation of 49 CFR part 40 not referenced below, absence of required provisions in contract, etc.)".

6. Effective August 6, 1990, the text of Appendix B is revised to read as follows:

Appendix B—Designation of Laboratory for Post-Accident Toxicological Testing

The following laboratory is currently designated to conduct post-accident toxicological analysis under subpart C of this part:

CompuChem Laboratories (Attention: Special Division), 3308 Chapel Hill/Nelson Highway, Research Triangle Park, North Carolina 27709. Telephone: (919) 248-6888 (working hours); (919) 248-6487 (nights and weekends).

Appendix C—[Amended]

7. Appendix C, Exhibit C-1, Item E, is amended by revising the "bullet" point item reading "Before removing the numbered urine label from the control form, ask the employee to enter his/her social security or employee I.D. number on the numbered urine label." to read:

"Before removing the urine bottle custody seal (attached to the back of the Control Form), ask the employee to enter their Social Security Number or employee identification number on the Control Form (top left, above 'Step 1') and on the urine bottle custody seal. Also have the employee verify that the pre-printed sample set identification number on the seal matches what appears at the top right of the Control Form."

PART 217—[AMENDED]

1. The authority citation for part 217 is revised to read as follows:

Authority: 45 U.S.C. 431, 437 and 438, as amended; Pub. L. No. 100-342; and 49 CFR 1.49(m).

2. Section 217.13 is amended by revising paragraph (d)(6) to read as follows:

§ 217.13 Annual report.

* * * * *

(d) * * *

(6) Number and results of random drug tests conducted under the authority of § 219.601 of this chapter. For positive tests indicate the number for each controlled substance by drug group, and the following information: number and type of disciplinary actions taken, number of employees referred for evaluation, number of employees evaluated as not requiring formal treatment, number of employees evaluated as requiring outpatient treatment, number of employees evaluated as requiring inpatient treatment, number of employees failing to complete abatement or rehabilitation, number of employees who completed abatement or rehabilitation determined after investigation to have been involved in subsequent alcohol/drug disciplinary offenses, and number of follow-up tests and results by drug group (including refusals). Also indicate number of refusals to cooperate in random and follow-up testing.

Issued in Washington, DC., on May 30, 1990.

Perry A. Rivkind,

Deputy Administrator.

[FR Doc. 90-12911 Filed 5-31-90; 11:25 am]

BILLING CODE 4910-06-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 91050-0019]

Foreign Fishing; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) prohibits fishing for groundfish in the Gulf of Alaska with a fishing vessel that has either bottom trawl gear or hook-and-line gear attached or on board that vessel from May 29, 1990 through June 30, 1990. This action is necessary to limit the prohibited species catch (PSC) allowances of Pacific halibut established for trawl gear and hook-and-line gear to the amount provided for by regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). It is intended to carry out the management objectives of the North Pacific Fishery Management Council.

DATES: This notice is effective at 12 noon, Alaska Local Time (a.l.t.) on May 29, 1990, until midnight, a.l.t. June 30, 1990

FOR FURTHER INFORMATION CONTACT: Janet Smoker, Fishery Management Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs groundfish fishing in the U.S. exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR 611.92 and part 672. Special consideration is given to the conservation of Pacific halibut (halibut), a valuable species sought in another U.S. fishery, but caught as bycatch in the groundfish fishery. Pacific halibut are managed under authority of the International Pacific Halibut Commission; however, bycatches by U.S. fishermen are controlled through prohibited species catch (PSC) mortality limits (50 CFR 672.20(f)). The halibut PSC mortality limit for the Gulf of Alaska in 1990 is allocated, on a quarterly basis, to hook-and-line gear and trawl gear under an emergency interim rule (55 FR 5994; February 21, 1990) which was extended at 55 FR 20465 (May 17, 1990). The apportionments of the halibut PSC mortality limits established for trawl and hook-and-line gear through June 30,

1990, total 1,200 mt and 600 mt, respectively.

If, during the year, the Regional Director determines that the catch and resulting mortality of halibut by operators of vessels using hook-and-line or trawl gear will reach the quarterly apportionment of the halibut PSC limit established for either hook-and-line or trawl gear, the Regional Director will publish a notice in the **Federal Register** prohibiting fishing by vessels with hook-and-line or trawl gear, as appropriate, for the remainder of the quarter to which the PSC apportionment applies.

The PSC limits established for hook-and-line and trawl gear are allocated on a quarterly basis in the following manner:

	Trawl gear percent (PSC allocation)	Hook-and-line gear Percent (PSC allocation)
January 1–March 31	30% (600 mt)	20% (150 mt)
April 1–June 30	30% (600 mt)	60% (450 mt)
July 1–remainder of 1990	40% (800 mt)	20% (150 mt)
Total	100% (2,000 mt)	100% (750 mt)

Under the emergency interim rule implementing the quarterly PSC limit apportionment scheme, if a quarterly apportionment for hook-and-line or trawl gear is exceeded, the amount by which the quarterly apportionment is exceeded will be deducted from the respective PSC apportionment for the next quarter.

The Regional Director has determined that the total PSC mortality occurring in the Gulf of Alaska trawl and hook-and-line groundfish fisheries has reached the PSC mortality limits apportioned to these gear types through June 30, 1990 (1,200 mt and 600 mt, respectively). Therefore, the Regional Director prohibits fishing frim vessels with bottom trawl or hook-and-line gear attached or on board a vessel in the Gulf of Alaska from 12 noon a.l.t. May 29, 1990, through 12 midnight June 30, 1990. Furthermore, the Regional Director gives notice to operators of vessels using hook-and-line gear that preliminary estimates of total halibut bycatch mortality in the hook-and-line fisheries through May 12 indicate that the total PSC limit established for this gear type (750 mt) for 1990 has been taken. If this is the case, the Regional Director will issue a subsequent fishery closure notice that would prohibit fishing from vessels with hook-and-line gear attached or on board for the remainder of the year.

Classification

Unless this notice takes effect promptly, the apportionments of the halibut PSC mortality limits established for trawl and hook-and-line gear through June 30 will be exceeded. Furthermore, the total annual PSC allowance established for hook-and-line gear may be exceeded. NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. This action is taken under § 672.20(f) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: May 29, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–12752 Filed 5–29–90; 3:28 pm]

BILLING CODE 3510-22-M

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50 CFR Part 659

[Docket No. 900385–0085]

Shrimp Fishery Off South Carolina and Georgia

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Termination of an emergency rule.

SUMMARY: NOAA terminates the emergency rule that prohibits the harvest of white, pink, and brown shrimp from the exclusive economic zone (EEZ) off South Carolina and Georgia. The prohibition was implemented to protect the spawning stock of white shrimp, which was severely depleted during unusually cold weather in December 1989. As determined by sampling in state waters, the surviving white shrimp have spawned successfully, thereby enhancing the potential for a productive fall fishery. The intended effect of this rule is to allow the resumption of normal fishing activity now that the purpose of the prohibition has been attained.

EFFECTIVE DATE: Thirty minutes before sunrise on June 1, 1990.

FOR FURTHER INFORMATION CONTACT: William R. Turner, 813–893–3722.

SUPPLEMENTARY INFORMATION: Under section 305(e)(1) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary of Commerce (Secretary) promulgated an emergency rule for the shrimp fishery off South Carolina and Georgia (55 FR 13153; April 9, 1990). Specifically, the Secretary found that protection was required for the spawning stock of white shrimp, which had been severely depleted during unusually cold weather in December 1989. The harvest of white, pink, and brown shrimp was prohibited in the EEZ off South Carolina and Georgia, complementing similar prohibitions in adjoining state waters. The emergency rule is effective April 3, 1990, through July 2, 1990, unless terminated earlier in accordance with criteria specified in the rule at 50 CFR 659.1(b). One of those criteria is the South Carolina Wildlife and Marine Resources Commission opening the waters of South Carolina to shrimp trawling. Effective 30 minutes before sunrise on June 1, 1990, the waters of South Carolina are so opened. The opening of South Carolina's waters is based on biological factors, foremost of which is the degree of spawning success of white shrimp, as determined by sampling by South Carolina in their waters. Accordingly, on June 1, 1990, the regulations at 50 CFR part 659, promulgated by the emergency rule are terminated.

Other Matters

This action is authorized by 50 CFR 659.1(b) and complies with E.O. 12291.

List of Subjects in 50 CFR Part 659

Fisheries, Fishing.

Authority: 16 U.S.C. 1801 *et seq.*

For the reasons set forth in the preamble, 50 CFR part 659 is removed.

Dated: May 30, 1990.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries.

[FR Doc. 90-12851 Filed 5-30-90 2:05 pm]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 91050-0019]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition of retention of groundfish; request for comments.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), is prohibiting further retention of sablefish by vessels fishing with trawl gear in the West Yakutat District of the Eastern Regulatory Area of the Gulf of Alaska area from 12 noon, Alaska Daylight Time (ADT), on May 29, 1990, through December 31, 1990.

DATES: This notice is effective from 12 noon, ADT, on May 29, 1990, until midnight, Alaska Standard Time, December 31, 1990. Public comments will be accepted through June 13, 1990.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Jessica Gharrett, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and apportioned among the regulatory areas and districts.

Under § 672.24(b)(3)(ii), when the Regional Director determines that the share of sablefish TAC assigned to any gear for any year and any area of district is reached, further catches of sablefish must be treated as a prohibited species by persons using that type of gear for the remainder of that year.

The 1990 TAC specified for sablefish in the West Yakutat District of the Eastern area is 4,550 mt, 230 mt of which is the trawl share (55 FR 3223, January 31, 1990). On January 26, 1990, the directed fishery for sablefish in the West Yakutat District for vessels using trawl gear was closed. The Regional Director reports that vessels using trawl gear will have caught the entire allocation by May 29.

Therefore, pursuant to § 672.24(b)(3)(ii), the Secretary is prohibiting further retention of sablefish by trawl gear in the West Yakutat District of the Eastern Regulatory Area of the Gulf of Alaska effective noon, A.D.T., May 29, 1990.

The entire TAC for sablefish for trawl gear in the West Takutat District of the Eastern Regulatory Area has been reached. Therefore, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed.

Public comments on the necessity for this action are invited for a period of 15 days after the effective date of this notice. Public comments on this notice of closure may be submitted to the Regional Director at the above address.

Classification

This action is taken under § 672.24(b)(3) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: May 29, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-12753 Filed 5-29-90; 3:28 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 107
Monday, June 4, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV-89-167PR]

Expenses and Assessment Rate for the Marketing Order Covering Papayas Grown in Hawaii

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize a budget authorizing expenditures and establishing an assessment rate for the 1990–91 fiscal year (July 1–June 30) under Marketing Order No. 928. The proposed expenditures and assessment rate are needed by the Papaya Administrative Committee (PAC) established under this order to pay its expenses and collect assessments from handlers to pay those expenses. The proposed action would enable the PAC to perform its duties and the marketing order to operate.

DATES: Comments must be received by June 14, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 928 (7 CFR part 928) regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 120 handlers of Hawaiian papayas subject to regulations under the marketing order covering papayas grown in Hawaii and about 345 papaya producers in Hawaii. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural services firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

This marketing order, administered by the U.S. Department of Agriculture (Department), requires that the assessment rate for a particular fiscal year shall apply to all assessable papayas handled from the beginning of such year. An annual budget of expenses is prepared by the PAC and submitted to the Department for approval. The PAC members are handlers and producers of Hawaiian papayas. They are familiar with the PAC's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the PAC is derived by dividing anticipated expenses by the expected pounds of assessable papayas shipped. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the PAC's expected expenses. The annual budget and assessment rate are usually acted upon by the PAC shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the PAC will have funds to pay its expenses.

The Papaya Administrative Committee (PAC) met on May 3, 1990, and unanimously recommended a 1990–91 budget with expenditures of $827,837. The 1990–91 budget is similar in scope to the $814,030 budgeted for 1989–90. The 1990–91 budget contains $367,837 for program administration, $400,000 for advertising and promotion, and $60,000 for research and development. The budget increase is primarily due to increases for employee salaries, retirement plan contributions, and committee travel. The advertising, promotion, and research projects will be submitted to the Department for approval as soon as the 1990–91 budget is approved.

The PAC also unanimously recommended an assessment rate for 1990–91 of $0.0085 per pound of assessable papayas shipped, the same rate as applied in 1989–90. PAC income for 1990–91 is expected to total $353,660. Assessment income, estimated at $552,500, is based on projected shipments of 65,000,000 pounds of assessable papayas. Additional income includes $200,000 in promotional grants from the Hawaii Department of Agriculture and $63,360 from the USDA's Foreign Agricultural Service. Further income includes $7,800 from the Japan Inspection Program, $18,000 from the Japan Trade Show, and $12,000 from miscellaneous sources including interest. Projected 1990–91 income over expenses ($25,823) is designed to increase the PAC's relatively low operating reserve, projected at $37,201 on July 1, 1990.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A comment period of 10 days is deemed appropriate for this action, because approval of the expenses and assessments rates must be expedited. This marketing order's fiscal year begins on July 1, 1990, and the PAC needs sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 928 be amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New Section 928.220 is added to read as follows:

§ 928.220 Expenses and assessment rate.

Expenses of $827,837 by the Papaya Administrative Committee are authorized, and an assessment rate of $0.0085 per pound of assessable papayas is established for the fiscal year ending June 30, 1991. Any unexpended funds from the 1989–90 fiscal year may be carried over a reserve.

Dated: May 30, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–12882 Filed 6–1–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1139

[DA–90–019]

Milk in the Great Basin Marketing Area; Notice of Proposed Revision of Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed revision of rule.

SUMMARY: A small cooperative association in South Central Idaho has requested that the percentage of a cooperative association's milk supply that may be diverted to nonpool plants be increased by 10 percentage points. The Great Basin order authorizes such a revision if warranted. Interested parties are invited to submit comments on the proposal.

DATES: Comments are due no later than June 19, 1990.

ADDRESSES: Comments (two copies) should be sent to: USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456 (202) 447–4829.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The action would also tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the provisions of § 1139.13(d)(4) of the order, the revision of certain provisions of the order regulating the handling of milk in the Great Basin marketing area is being considered.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456 by the 15th day after publication of this notice in the **Federal Register**.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

Quality Milk Producers, Inc. (QMP) Jerome, Idaho, has requested that the percentages of milk that may be diverted by a cooperative association pursuant to § 1039.13(d)(2) of the order be increased. Currently, a cooperative association may divert for its account 60 percent of its milk supply in April through August and 50 percent in other months. QMP is requesting that the Director of the Dairy Division exercise discretionary authority to revise these percentages to 70 percent for April through August and 60 percent in other months. Section 1139.13(d)(4) provides that the Director may increase or decrease the diversion allowances by up to 10 percentage points if necessary to obtain needed shipments or to prevent uneconomic shipments.

QMP, a cooperative association that represents a small number of dairy farmers located in South Central Idaho, states that since the association was formed in 1987, their members have increased production, while their deliveries to handlers have declined. As a result, approximately 31 percent of the members' total production during March 1990 could not be pooled because of the 50 percent diversion allowance for that month. QMP's request indicates that the farmer-members of the association had been serving the Great Basin order for several years prior to forming the cooperative.

QMP notes that the diversion percentages applicable to handlers other than cooperative associations have already been increased by 10 percentage points. Therefore, their requested action would provide for cooperatives the same diversion allowances now available to other handlers.

List of Subjects in 7 CFR Part 1139

Milk marketing orders.

The authority citation for 7 CFR part 1139 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Signed at Washington, DC, on May 30, 1990.

W. H Blanchard,

Director, Dairy Division.

[FR Doc. 90–12881 Filed 6–1–90; 8:45 am]

BILLING CODE 3410–02–M

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule for Mainframe Computers

AGENCY: Small Business Administration.

ACTION: Intent to waive the nonmanufacturer rule for mainframe computers.

SUMMARY: This notice advises the public of the Small Business Administration's (SBA) intent to grant a waiver of the "nonmanufacturer rule" for mainframe computers. The basis for a waiver is that no small business manufacturer is supplying this product to the Federal government. The effect of a waiver would be to allow an otherwise qualified regular dealer to supply the product of any domestic manufacturer on a Federal contract set aside for small business or awarded through the 8(a) program. The presence of small business manufacturers in the Federal market has been determined for other computer equipment such as mini computers, micro computers and computer peripheral equipment. Consequently, SBA does not intend to waive the nonmanufacturer rule for any other computer equipment item.

DATES: Comments must be submitted on or before July 5, 1990.

ADDRESSES: Address comments to: Robert J. Moffitt, Chairperson, Size Policy Board, U.S. Small Business Administration, 1441 L Street NW., room 600, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Director, Size Standards Staff, Tel: (202) 653-6373.

SUPPLEMENTARY INFORMATION: Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small business or 8(a) contracts must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the "nonmanufacturer rule." The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provided for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. This notice proposes to waive the nonmanufacturer rule for mainframe computers. Also, this notice informs the public that SBA does not intend to grant a waiver for computer peripheral equipment, micro computers and mini-computers since SBA has found small manufacturers of these products which supply the Federal government.

Several Federal procurement activities advised the SBA that it appeared that a waiver to the nonmanufacturer rule was appropriate for Automatic Data Processing (ADP) Equipment due to the absence of small business manufacturers in the Federal market place. Several years ago, an association of 8(a) firms also raised this as a problem for minority-owned dealers. In response to this concern, the SBA initiated a review of small business manufacturers of ADP equipment selling to the Federal Government.

To be considered in the Federal market, a small manufacturer must have been awarded a contract by the Federal government within the last three years. A class of products is considered to be a particular Product and Service Code (PSC) under the Federal Procurement Data System or an SBA recognized product line within a PSC. The definition of these terms is consistent with those used to establish a waiver of the nonmanufacturer rule for several types of construction equipment on December 28, 1989 (54 FR 53317).

SBA's review of the Federal market evaluated procurement statistics from the U.S. General Services Administration's (GSA) Federal Procurement Data Center (FPDC). Additionally, SBA also reviewed the GSA's "ADP Schedule" of January 9, 1990 which lists the type of product, the manufacturer and, in most cases, whether the manufacturer is a small business. Since the firm must negotiate a supply agreement with GSA to be placed on this schedule, it is considered to be in the Federal market.

The SBA review focused on the Federal Procurement Data System's Product and Service Codes (PSC). The following are identified with ADP equipment:

PSC	Description
7020	ADP Central Processing Unit, Analog.
7021	ADP Central Processing Unit, Digital.
7022	ADP Central Processing Unit, Hybrid.
7025	ADP Input/Output and Storage Devices.
7035	ADP Support Equipment.
7042	Mini and Micro Computer Control Devices.
7050	ADP Components.

The FPDC procurement data for fiscal years 1987 and 1988 (the latest data available) revealed that small business manufacturers received contracts in each PSC code. Thus a waiver for an entire PSC code cannot be granted.

SBA researched small manufacturers of products within these PSCs to determine if a waiver could be based on a product line. Products were defined as those listed under the FPDC's definition of a product line and those listed under GSA's "ADP Schedule." GSA's schedule was used to identify products since it represents a comprehensive listing of ADP equipment purchased by the Federal government and is a more detailed listing of products than are the PSCs.

In order to verify the information on the GSA schedule, SBA contacted, by telephone, the listed small business producer and inquired as to the actual product or products it supplied the Federal government and its current size status. Where some doubt existed as to the small business status of the supplier, SBA obtained a Dun and Bradstreet (D&B) credit report on that firm to determine the number of employees of the firm and if the firm was affiliated with other firms. A few firms were not verifiable as small business sources after the D&B review, however, there still remained multiple verified small business sources.

All product lines of ADP products within PSCs 7020, 7021, 7022, 7025, 7035, 7042, and 7050 were found to have small manufacturer suppliers to the Federal government, except for mainframe computers. Multiple small manufacturer suppliers were found for the following product lines which are most commonly purchased:

Description	PSC	Description	PSC
Control devices	7035	Monitors	7025
Communication boards.	7050	Multiplexers	7025
Couplers	7050	Networking items	7025
Disk drives	7025	Optical disk equipment.	7025
Input/output devices.	7025	Plotters	7025
Keyboards	7025	Power Equipment	7050
Memory boards	7050	Printers	7025
Mini computers	7023	Scanners	7025
Micro computers	7023	Storage devices	7025
Modems	7025	Terminals	7025
		Tape drives	7025

Small manufacturer suppliers were also found for the other product lines of ADP equipment listed in the GSA schedule. Because SBA was unable to identify any small business manufacturers of mainframe computers that supplied the Federal market, a waiver limited to this single class of product within PSC 7021 is being considered.

The public is invited to submit comments on the basis for a waiver for mainframe computers as a product line or class of products within PSC 7021. The public is also invited to comment on SBA's position that a waiver is not appropriate for any other product line or class of product within PSC 7021 or any product line whatever within PSCs 7020, 7022, 7025, 7035, 7042, and 7050.

If evidence is received that a small manufacturer of mainframe computers is, in fact, in the Federal market, as defined by receiving a Federal contract within the past three years, SBA will reevaluate its position. If evidence is received that an error exists in denying a waiver for a class of products within one of the seven PSCs, SBA will also reevaluate its position.

Dated: May 23, 1990.

Susan S. Engeleiter,

Administrator, U.S. Small Business Administration.

[FR Doc. 90-12811 Filed 6-1-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-90-12]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 3, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. 26232, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on May 29, 1990.

Denise Donohue Hall,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Rulemaking

Docket No.: 26232.

Petitioner: Association of Flight Attendants.

Regulations Affected: 14 CFR parts 121 and 135.

Description of Petition: The petitioner proposes to add a new subpart to parts 121 and 135 of the FAR to: (1) Require that each air carrier provide to each of its employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees, and (2) prohibit an air carrier from discharging or in any manner discriminating against any employee because the employee has filed a complaint or instituted or caused to be instituted any proceeding related to health and safety or has testified or is about to testify in a proceeding or because of the exercise by the employee on behalf of himself or others of any right under the Federal Aviation Act or the regulations issued thereunder. In addition the petitioner asks the Federal Aviation Administration (FAA) to adopt Occupational Safety and Health Administration (OSHA) standards concerning record keeping requirements, access to employee exposure and medical records, right to inspection, walking/working surfaces, noise, radiation, hazardous materials, personal protective equipment, medical and first aid, fire protection, materials handling, toxic and hazardous substances, and hazardous communication. Petitioner also requests that when in the future OSHA proposes additional regulations that the FAA seek immediate comment on whether the proposed regulation should apply to airline crewmembers, and if the FAA determines that the regulation would apply to airline crewmembers, it immediately adopt the final OSHA rule.

Petitioner's Reason for the Request: The petitioner believes a balance should be found between agency duplication and leaving hazards unregulated. The petitioner believes it is unfair and unsafe to leave airline crewmembers unprotected by OSHA's safety and health regulations.

[FR Doc. 90-12821 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-CE-18-AD]

Airworthiness Directives; Pilatus Aircraft, Ltd., and Fairchild-Hiller PC-6 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Pilatus Aircraft, Ltd., Model PC-6 Turbo Porter and Fairchild-Hiller Model PC-6 airplanes, which would require inspections and repair or replacement, if necessary, of the welded steel rudder pedal support. Reports have been received of fatigue cracks being discovered on the rudder torque tube. Repair or replacement of cracked rudder torque tubes will prevent loss of airplane directional control.

DATES: Comments must be received on or before July 24, 1990.

ADDRESSES: For Pilatus built Airplanes Pilatus Aircraft, Ltd., Alert Service Bulletin (ASB) No. PC6-A-162, dated November 10, 1989, applicable to this AD, may be obtained from Pilatus Aircraft, Ltd., Product Support Department, CH6370 Stans, Switzerland, and for Fairchild-Hiller built airplanes Service Bulletin (SB) No. PC6-27-15, including Addendum 1, Maryland Air Industries, Inc. (MAI) (Formerly Fairchild-Hiller and Fairchild-Republic), Top Flight Airpark Route 12, Box 102, Showalter Road, Hagerstown, Maryland 21740; Telephone (301) 797-0887. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-18-AD, room 1558, 601 East 12th Street,

Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Mittag, Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 322.513.38.30, or H. Belderok, Foreign FAR 23 Section, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–18–AD, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The manufacturer has received several reports of fatigue cracks on Pilatus Aircraft, Ltd., PC–6 series airplanes equipped with welded steel rudder supports, rudder torque tube Part Number (P/N) 6232.0196.00. Airplanes with cast aluminum rudder pedal supports, torque tube P/N 116.35.06.104 are not affected.

As a result, Pilatus Aircraft, Ltd., has issued ASB No. PC6–A–162, dated November 10, 1989, and Maryland Air Industries, Inc. (formerly Fairchild-Hiller and Fairchild-Republic, which manufactured the PC–6 model airplanes under license from Pilatus) has issued SB No. PC6–27–15 which specifies initial and repetitive visual inspections of the rudder pedal support for cracks using a magnifying glass. If cracks are found, the rudder pedal support must be repaired or replaced prior to further flight.

The Federal Office for Civil Aviation (FOCA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Switzerland, has classified this ASB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Swiss registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of FOCA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Pilatus ASB No. PC6–A–162 and MAI SB No. PC6–27–15 and the mandatory classification of the Pilatus ASB by the FOCA.

Based on the foregoing, the FAA believes that the condition addressed by Pilatus ASB No. PC6–A–162 and MAI SB No. PC6–27–15 is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require an initial visual inspection of all PC–6 airplanes fitted with welded steel rudder pedal supports, within the next 50 hours time-in-service (TIS) and repetitive visual inspections of these supports every 100 hours TIS thereafter for cracks in the area under the clamping collar and welds using a magnifying glass. If cracks are found, the rudder pedal support must be repaired or replaced with a serviceable unit in accordance with S/B PC6–A–162 or PC6–27–15, as appropriate, prior to further flight. Upon installation of rudder pedal support manufactured from a machined casting Part Number 116.35.06.104, the repetitive 100 hours TIS may be discontinued.

The FAA has determined there are approximately 26 airplanes affected by the proposed AD. The cost of complying with the initial visual inspection required by the proposed AD is estimated to be $80 (two work hours at $40 per hour) per airplane. The total cost is estimated to be $2,080. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Pilatus Aircraft, Ltd., and Fairchild-Hiller: Applies to PC–6 series airplanes manufactured by Pilatus Aircraft, Ltd., (Serial Number (S/N) 1 through 824), and to Model PC–6 airplanes manufactured by Fairchild-Hiller (S/N 2001 and up) (all variants) fitted with welded steel rudder pedal supports certificated in any category.

Compliance: Required initially within the next 50 hours time-in-service (TIS) after the effective date of this AD, and thereafter at

intervals of 100 hours TIS, unless already accomplished.

To preclude failure of the welded steel rudder pedal supports, accomplish the following:

(a) Visually inspect the rudder pedal support for cracks using a 10x magnifying glass in accordance with:

(1) Alert Service Bulletin No. PC6–A–162 for those airplanes built by Pilatus Aircraft, Ltd.; or

(2) Service Bulletin No. PC6–27–15 for those airplanes built by Fairchild-Hiller.

(b) If cracks are found, prior to further flight repair or replace the rudder pedal support with a serviceable airworthy unit in accordance with the instructions contained in the above appropriate Service Bulletin.

(c) The repetitive 100 hour TIS inspections may be discontinued upon installation of a rudder pedal support manufactured from a machined casting Pilatus Part Number 116.35.06.104.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(e) An alternate method of compliance or adjustment of the initial or repetitive compliance times which provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Pilatus Aircraft, Ltd., Product Support Department, CH6370 Stans, Switzerland, or Maryland Air Industries, Top Flight Airpark, Route 12, Box 102, Showalter Road, Hagerstown, Maryland 21740; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–12817 Filed 6–1–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–CE–19–AD]

Airworthiness Directives; Piper Models PA23, PA23–150, PA23–160, PA23–235, PA23–250, and PA23–250(6) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Piper PA23 series airplanes which would provide new pre-flight fuel system draining procedures and require modification of the fuel systems on the affected airplanes. There have been numerous reports of engine stoppage due to fuel contaminated with water. The actions specified in this proposal will reduce the possibility of engine stoppage from this cause.

DATES: Comments must be received on or before July 24, 1990.

ADDRESSES: Piper Aircraft Corporation Service Bulletin (SB) No. 827A, dated November 4, 1988, and SB No. 932, dated January 12, 1990, applicable to this AD, may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567–4366. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–19–AD, room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: W.H. Trammell, Aerospace Engineer, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–19–AD, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

In response to service reports and inquiries from field organizations, the FAA established a team in 1987 to evaluate the Piper PA–23 series airplane fuel system as to water contamination and drain provisions. The team concluded that trapped fluid, including water, could occur in excess of the capacity of the fuel strainer, due to a low spot in the aft inboard corner of the main fuel tanks. To correct this problem, Piper issued SB No. 827A, dated November 4, 1988. Part I of this SB revised the fuel system draining procedures of a previous 1986 Piper SB (No. 827), and Part II announced the availability of an Apache dual fuel drain kit. On January 12, 1990, Piper took additional action by issuing Piper SB No. 932, applicable to all series airplanes. Part I of this SB provides fuel cell wedge kit installation for unbaffled fuel cells. Part II calls for an enlarged fuel bowl installation for baffled fuel cells. Since the condition described herein is likely to exist or develop in other Piper PA23 series airplanes of the same design, the proposed AD, applicable to these airplanes, would require fuel drainage at each pre-flight inspection, the installation of a Dual-Fuel Drain Installation kit, on Apache series airplanes, and the installation of fuel cell wedges in unbaffled fuel tank airplanes and larger fuel bowls in baffled fuel tank airplanes in accordance with the above SBs.

Since the fuel contamination problem described in this AD is primarily affected by calendar time, the FAA has determined that the compliance time should be expressed in terms of calendar time rather than operating hours.

The FAA has determined the approximate cost as follows: The Apache dual fuel kit: 1,107 airplanes at $770 each or $852,390. The fuel cell wedge kit: 3,259 airplanes at $567 each or $1,847,853. The Aztec fuel bowls: 468 airplanes at $142 each or $66,456. The total estimated cost is $2,766,700 for the proposed AD. Since the individual airplane cost is so small, this proposed AD will not have a significant financial impact on any small entities owning the affected airplanes.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and

the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper: Applies to Models PA23, PA23-150, PA23-160 (serial numbers (S/N) 23-1 through 23-2046), PA23-235 (S/N 27-505 through 27-622), PA23-250, PA23-250(6) (S/N 27-1 through 27-7405476, and S/N 27-7554001 through 27-8154030) airplanes, certificated in any category.

Compliance: Required within the next 180 calendar days after the effective date of this AD, unless already accomplished.

To preclude rough engine operation or complete power interruption caused by water contamination in the fuel, accomplish the following:

(a) For Models PA23, PA23-150, PA23-160 airplanes:

(1) Incorporate into the Owner Handbook and/or Pilots Operating Manual the instructions contained in part I of Piper Service Bulletin (S/B) No. 827A, dated November 4, 1988, and operate the airplane accordingly.

(2) Modify the airplane by the installation of Piper Duel-Fuel Drain Kit (Part Number (P/N) 765-363), in accordance with the instructions in part II of Piper S/B No. 827A, dated November 4, 1988.

(3) Modify the airplane by the installation of Piper Fuel Tank Wedge Kit (P/N 599-367), in accordance with the instructions in part I of Piper S/B No. 932, dated January 12, 1990.

(b) For Models PA23-235, PA23-250, and PA23-250(6) airplanes equipped with unbaffled fuel tanks, modify the airplane by the installation of Piper Fuel Tank Wedge Kit (P/N 599-367), in accordance with the instructions in part I of Piper S/B No. 932, dated January 12, 1990.

(c) For Models PA23-250 and PA23-250(6) airplanes equipped with baffled fuel cells, modify the airplane by the installation of enlarged fuel bowls (P/N 89483-008) in accordance with the instructions in part II of Piper S/B No. 932, dated January 12, 1990.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An alternate method of compliance or adjustment of the initial compliance time which provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567-4366 or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-12815 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-CE-35-AD]

Airworthiness Directives; SIAI-Marchetti F260 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of a Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action withdraws an NPRM which proposed the adoption of a new Airworthiness Directive (AD), applicable to SIAI-Marchetti F260 series airplanes which would have superseded AD 75-22-19 and required inspection for cracks on the landing gear bellcrank pivot bolts and replacement of any bolts found cracked or not of the current design. After further evaluation, it has been determined that the information which led to the proposed AD does not constitute an unsafe condition. As a result, the NPRM is being withdrawn.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Mittag, Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; or Richard F. Yotter, Aerospace Engineer, Aircraft Certification Service, 601 E. 12th Street, Kansas City, Missouri; Telephone (816) 426-6932.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1990, a NPRM was published in the **Federal Register** (55 FR 10) applicable to SIAI-Marchetti F260 series airplanes, proposing to supersede AD 75-22-19, Amendment 39-2388 with a new AD that would require inspection for cracks on the landing gear bellcrank pivot bolts and replacement of any bolts found cracked or not of current design. This action was proposed based upon a recent manufacturer's recommendation and the mandatory classification of this information by the Registro Aeronautico Italiano (RIA). The comment period was opened on January 16, 1990, and was closed on March 2, 1990.

The FAA has received one comment on this proposed rule from the U.S. representative for these model series airplanes. The commenter indicated that the cracks referenced in this manufacturer's service information are actually surface anomalies in only the finish on the landing gear bellcrank pivot bolts. Even on new bolts these anomalies give an indication of cracks using the inspection methods specified by the manufacturer. The FAA has confirmed with the RAI that these surface imperfections in the bellcrank pivot bolts will not result in an unsafe condition. In addition, a review of the FAA Service Difficulty Reports disclosed no reports of failure of the bellcrank pivot bolts in service.

The FAA is issuing an Airworthiness Alert advising owners of SIAI-Marchetti airplanes that Service Bulletin No. 260-B46, dated February 6, 1989, has been issued and recommends compliance during any routine maintenance. In view of the public comment to this proposed NPRM, and the alternative action underway, the FAA has determined that this proposed Airworthiness Directive should not be issued.

Therefore, NPRM Docket 89-CE-35-AD is hereby withdrawn. This action is pursuant to § 11.89 of part 11 of the

Federal Aviation Regulations (14 CFR part 11).

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-12818 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-20-AD]

Airworthiness Directives; SOCATA Models TB 20 and TB 21 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain SOCATA Models TB 20 and TB 21 airplanes, which would require initial and repetitive visual inspections for cracks of fuselage frame No. 0 adjacent to the engine mount and landing gear mount. Three cracks of this fuselage frame have been reported. This action will preclude failure of the fuselage frame and resulting loss of structural integrity.

DATES: Comments must be received on or before July 24, 1990.

ADDRESSES: Aerospatiale Service Bulletin No. 42, dated October 1989, applicable to this AD, may be obtained from Aerospatiale, Aeroport Tarbes-Ossum-Lourdes, B.P. 930 65009, Tarbes Cedex, France; Telephone 62.51.7300. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-20-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Everett Pittman, Aerospace Engineer, Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; or Richard F. Yotter, Aerospace Engineer, Project Support Section-Foreign, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-20-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Three incidents have been reported to SOCATA of cracked fuselage frame No. 0 on its Models TB 20 and TB 21 airplanes. Cracking of the fuselage frame could cause an unsafe landing gear attachment or a loose engine mount. As a result, SOCATA has issued Aerospatiale Service Bulletin No. 42, dated October 1989, which requires initial and repetitive visual inspections of the fuselage frame No. 0 for cracks and repair as necessary. The Direction Generale de l'Aviation Civile (DGAC), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in France, has classified Aerospatiale Service Bulletin No. 42 and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under French registration, this action has the same effect as an AD on airplanes certified for operation in the United States.

The FAA relies upon the certification of the DGAC combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Aerospatiale Service Bulletin No. 42, dated October 1989, and the mandatory classification of this Aerospatiale Service Bulletin No. 42 by the DGAC. Based on the foregoing, the FAA believes that the condition addressed by Aerospatiale Service Bulletin No. 42, dated October 1989, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States.

Consequently, the proposed AD would require an initial and repetitive visual inspection of fuselage frame No. 0 on SOCATA Models TB 20 and TB 21 airplanes and the repair of cracked frames prior to further flight, in accordance with the above Service Bulletin.

The FAA has determined there are approximately 120 airplanes affected by the proposed AD. The cost of inspecting airplanes affected by the proposed AD is estimated to be $80 per airplane. The total cost is estimated to be $9,600. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

SOCATA: Applies to Models TB 20 and TB 21 (serial numbers 1 through 1021) airplanes certificated in any category.

Compliance: Compliance as indicated in the body of the AD, unless already accomplished.

To prevent structural failure of the fuselage frame in the area of the landing gear attachment, accomplish the following:

(a) On airplanes with more then 1,500 hours time-in-service (TIS) on the effective date of this AD, within the next 100 hours TIS after the effective date of this AD and, thereafter, at intervals not to exceed 500 hours TIS, visually inspect the fuselage frame No. 0 for cracks in the area of the engine mount and landing gear mount per the instruction in Aerospatiale Service Bulletin (SB) No. 42, dated October 1989. Prior to further flight, repair any cracked frames found per the instructions in the above SB.

(b) On airplanes with less than 1,500 hours TIS on the effective date of this AD, within the next 100 hours TIS or prior to accumulating 1,600 hours TIS whichever occurs later, and, thereafter, at intervals not to exceed 500 hours TIS, visually inspect the fuselage frame No. 0 for cracks in the area of the engine mount and landing gear mount per the instructions in Aerospatiale SB No. 42. Prior to further flight, repair any cracked frames found per the instructions in the above SB.

(c) The repetitive inspections specified in paragraphs (a) and (b) of this AD are no longer required when the airplane has been modified in accordance with Socata Kit 9152.

(d) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An alternate method of compliance or adjustment of the initial or repetitive compliance times which provides an equivalent level of safety may be approved by the Manager, Aircraft Certification Office, Europe, Africa, Middle East Office, FAA, c/o American Embassy, B–1000, Brussels, Belgium.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels ACO.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Aerospatiale Aeroport Tarbes-Ossum-Lourdes, B.P. 930 65009 Tarbes, France; Telephone 62.51.7300; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–12816 Filed 6–1–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–CE–16–AD]

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Models M18 and M18A "Dromader" Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Models M18 and M18A airplanes, which would require a visual inspection of all aileron hinges for cracks and deformation, immediate replacement of cracked aileron hinges, and repetitive inspections until all aileron hinges are replaced. The FAA has become aware of a failure due to cracks in the aileron control system. The proposed action will prevent loss of roll control.

DATES: Comments must be received on or before July 24, 1990.

ADDRESSES: PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.132/89, approved September 7, 1989, applicable to this AD, may be obtained from Wytwornia Sprzetu Komunikacyjnego, PZL-Mielec, 39–301 Mielec, Poland. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–16–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location betw en 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Richard F. Yotter, Aerospace Engineer, Aircraft Certification Service, 601 E. 12th St., Kansas City, Missouri 64106; Telephone (816) 426–6932; Facsimile (816) 426–2169; or Mr. Carl Mittag, Aerospace Engineer, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; Telephone (322) 513.38.30; Facsimile (322) 230.05.34.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–16–AD, room 1558, 601 E. 12th Street,, Kansas City, Missouri 64106.

Discussion

There has been a report of an aileron hinge cracking in service on a PZL-Mielec Model M18 airplane. As a result, PZL-Mielec has issued PZL-Mielec MEB No. K/02.132/89, approved September 7, 1989, which specifies inspection and replacement of the aileron hinges. If aileron hinges are found to be cracked or deformed, they are to be replaced. If no cracks or deformation are found, repetitive inspections of the aileron hinge is necessary until replaced with an improved part. The Central Administration of Civil Aviation (CACA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Poland, has classified this Engineering

Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CACA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of PZL-Mielec MEB No. K/02.132/89, approved September 7, 1989, and the mandatory classification of this MEB by the CACA. Based on the foregoing, the FAA believes that the condition addressed by PZL-Mielec MEB No. K/02.132/89, approved September 7, 1989, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD, applicable to PZL-Mielec Models M18 and M18A airplanes, would require visual, magnetic, or fluorescent dye penetrant crack detection inspections of the aileron hinge for cracks or deformation, immediate replacement of cracked aileron hinges, and ultimate replacement of all aileron hinges in accordance with the above MEB.

The FAA has determined there are approximately 60 airplanes affected by the proposed AD. The cost of inspection and replacement of parts per the proposed AD is estimated to be $360 per airplane. The total one-time fleet cost is estimated to be $21,600. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes. The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Wytwornia Sprzetu Komunikacyjnego PZL-Mielec: Applies to Models M18 and M18A (Dromader) (Serial Numbers 1Z00-101, through 1Z021-07) airplanes certificated in any category.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD and thereafter at intervals of 100 hours TIS until the aileron hinge is replaced with improved parts, unless already accomplished.

To prevent failure of the aileron control system, accomplish the following:

(a) Visually inspect with a 5X magnifying glass, or with fluorescent penetrant or magnetic crack detection methods, as appropriate, all aileron control system hinges for cracks and deformation in accordance with the instructions in PZL-Mielec, Mandatory Engineering Bulletin (MEB) No. K/02.132/89, approved September 7, 1989.

(1) If cracks or damage are found on any aileron hinge, prior to further flight remove the aileron and replace the aileron hinge with an aileron hinge having ECN 9183 or ECN 9187 incorporated in accordance with the above MEB.

(2) If no cracks or damage are found to any aileron hinge repeat the above inspection every 100 hours TIS until all aileron hinges are replaced with an aileron hinge having ECN 9183 or ECN 9187 incorporated in accordance with the above MEB.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the initial or repetitive compliance times which provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 1000 Brussels, Belgium; Telephone (322) 513.38.30 extension 2710/2711; Facsimile (322) 230.05.34.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Wytwornia Sprzetu Komunikacyjnego PZL-Mielec 39-301 Mielec, Poland; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-12819 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-17-AD]

Airworthiness Directives; Wytwornia Sprzetu Komunekacyjnego PZL-Mielec Models M18 and M18A (Dromader) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Wytwornia Sprzetu Komunekacyjnego PZL-Mielec Models M18 and M18A airplanes, which would require replacement of push-pull cables for the engine throttle and propeller governor with SKEWO cables. The manufacturer has advised that several cases of push-pull cable failures have occurred in service. The proposed action will preclude loss of pilot control of critical engine power functions.

DATES: Comments must be received on or before July 24, 1990.

ADDRESSES: PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.127/89, dated February 1990, applicable to this AD, may be obtained from Wytwornia Sprzetu Komunekacyjnego PZL Mielec 39-301 Mielec, Poland. This information also may be examined at the Rules Docket at the address below. Send comments on

the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–17–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Richard F. Yotter, Aerospace Engineer, Aircraft Certification Service, 601 E. 12th Street, Kansas City, Missouri, 64106; Telephone (816) 426–6932, or Mr. Carl Mittag, Aerospace Engineer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000, Brussels, Belgium; Telephone 322 513.38.30.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–17–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Several cases of powerplant control failure have been reported to the manufacturer on PZL Mielec Models M18 and M18A airplanes. As a result, PZL-Mielec has issued PZL-Mielec MEB K/02.127/89, dated February 1990, which specifies replacement of certain engine push-pull controls with improved parts. The Central Administration of Civil Aviation (CACA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Poland, has classified this Engineering Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CACA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of PZL-Mielec MEB K/02.127/89, dated February 1990, and the mandatory classification of this Bulletin by the CACA. Based on the foregoing, the FAA believes that the condition addressed by PZL-Mielec MEB No. K/02.127/89, dated February 1990, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States.

Consequently, the proposed AD would require replacement of the engine throttle and propeller governor push-pull cable with a replacement SKEWO cables on certain PZL-Mielec Model M18 and M18A airplanes in accordance with above MEB.

The FAA has determined there are approximately 60 airplanes affected by the proposed AD. The cost of replacing the engine control cables per the proposed AD is estimated to be $700 per airplane. The total cost is estimated to be $42,000. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes. Also, the FAA has determined that most airplanes operated in this country comply with the above Engineering Bulletin.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Wytwornia Sprzetu Komunekacyjnego PZL-Mielec: Applies to Models M18 and M18A (Dromader) (Serial Numbers 1Z001–01 through 1Z021–20) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent failure of the engine push-pull cables and loss of engine control, accomplish the following:

(a) Remove the engine throttle control and the propeller governor push-pull control and replace those cables in accordance with the instructions and part numbers referenced in PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.127/89, dated February 1990.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30 extension 2710/2711.

Note: The request should be forwarded through an FAA Maintenance Inspector, who

may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Wytwornia Sprzetu Komunekacyjnego PZL-Mielec 39-301 Mielec, Poland; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 23, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-12820 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM87-26-003]

18 CFR Part 381

Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act

May 24, 1990.

AGENCY: Federal Energy Regulatory Commission (Commission), DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to expand the filing fees schedule for electric rate filings under the Federal Power Act from its present two classes to five classes in § 381.502 of the regulations. Under the proposal, incoming filings would be assigned to one of five fee classes based on the type of filing, ranging from the simplest rate schedule filings to the most complex. The U.S. Court of Appeals for the District of Columbia Circuit remanded the existing fee rules for further consideration. The Commission is also proposing reductions in fees for small, short-term transactions, for small entities, and for rate schedule filings supported by Period II data. The Commission is seeking comments on the proposed changes and intends to issue a final rule after reviewing the comments submitted.

EFFECTIVE DATE: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by July 5, 1990.

ADDRESSES: All filings should refer to Docket No. RM87-26-003 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Betty N. Toepfer, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0457.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice of proposed rulemaking will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426. In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

In the matter of Filing Fees Under the Independent Offices Appropriations Act of 1952.

The Federal Energy Regulatory Commission (Commission) proposes to revise § 381.502 of its regulations, which sets forth the fees for rate schedule filings under sections 205 and 206 of the Federal Power Act (FPA).

Under the proposal, incoming filings would be assigned to one of five fee classes based on the type of filing, ranging from the simplest rate schedule filings to the most complex. No fee would be assessed for the first class. For three of the other four classes or categories, the fee would be based on the actual cost to the Commission of processing an average filing within that class. For the final class or category, the fee would be based on less than full cost recovery. The Commission also is proposing categorical reductions in fees for small, short term transactions and for small entities. The Commission is seeking comments on the proposed changes,[1] and intends to issue a final rule after reviewing the comments submitted.

II. Background

The Commission is authorized under the Independent Offices Appropriations Act of 1952 (IOAA) to establish fees for the services and benefits it provides.[2] In addition, the Commission is authorized under the Omnibus Budget Reconciliation Act of 1986 (OBRA) to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year." [3]

The principal administrative interpretation of the IOAA is the Office of Management and Budget's Circular A-25,[4] which states that a fee should be assessed against each identifiable recipient of a measurable unit or amount of Government service or property from which the recipient derives a special benefit.[5] The IOAA, OMB Circular A-25

[1] On April 21, 1989, Public Systems filed an appeal of staff action (styled as a petition for rehearing) of an annual notice of update of filing fees in nine dockets numbered: RM82-25-003, RM83-2-004, RM82-30-004, RM82-35-002, RM82-31-008, RM82-38-010, RM86-14-002, RM87-26-002 and RM88-28-001. The issues raised in that appeal will be addressed in the final rule issued in this rulemaking docket. In response to the appeal, on May 22, 1989, the Commission issued a notice of intent to act. Because of the action undertaken in this NOPR, the Commission intends to terminate those dockets in the final rule as moot.

[2] 31 U.S.C. 483(a) (1988). The Commission established fees applicable to rate schedule filings under FPA sections 205 and 206 in Order No. 435, 50 FR 40,347 Oct. 3, 1985), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,663; and in Order No. 494, 53 FR 15,374 (Apr. 29, 1988), III FERC Stats. & Regs. ¶ 30,809 (1988).

[3] Public Law 99-509, title III, subtitle E, section 3401 (1986). The Commission established annual charges in Order No. 472, 52 FR 21,263 (June 5, 1987), III FERC Stats. & Regs. ¶ 30,746 (1987). All costs recovered through filing fees under the IOAA are subtracted from the costs that are otherwise to be collected by means of these annual charges.

[4] Issued as Bureau of the Budget Circular A-25 (Sept. 23, 1959). The United States Supreme Court expressed general approval for the interpretation of the IOAA embodied in Circular A-25. *Federal Power Commission* v. *New England Power Co.*, 415 U.S. 345, 349-51 (1974).

[5] A "special benefit" accrues when a Government-rendered service "enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public," provides business stability or assures public confidence in the business activity of the beneficiary, or is performed at the request of the recipient and is above and beyond the services regularly received by the same industry or group or by the general public. OMB Circular A-25 ¶ 3(a)(1).

and subsequent case law have established certain criteria that must be met in levying a fee. In establishing its fees, the Commission must: (1) Identify the service for which the fee is to be assessed;[6] (2) explain why the particular service benefits the identifiable recipient more than it benefits others in the industry or the general public; [7] (3) base the fee on as small a category of service as practical; [8] and (4) demonstrate calculation of the cost basis of each fee assessed.[9] This last criterion is satisfied when the Commission presents a reasonable, not necessarily exact, relationship between its costs and the fee assessed.[10]

The Commission's present two-class fee schedule for FPA sections 205 and 206 filings was established in a rulemaking proceeding initiated with issuance of a notice of proposed rulemaking (NOPR) on November 5, 1987.[11] In the NOPR which led to the present two-class fee structure, the Commission proposed consolidating all FPA section 205 and 206 rate filings in one fee category, believing that a single filing fee category would make it easier for electric utilities to pay, and for the Commission to collect, these fees.[12]

In Order No. 494, issued April 6, 1988, the Commission adopted a final rule that established two fee categories for FPA section 205 and 206 rate filings. Under the final rule, all electric utility rate schedule filings, except those that have no effect on the rate the utility charges or that involve only rate decreases, are subject to a single fee. The excepted filings are not subject to any fee.[13] In Order No. 494–A, issued June 6, 1988,[14] the Commission denied a request for rehearing of its decision to consolidate the electric rate filings fees into two categories, on the grounds that its action was appropriate under the IOAA.

The final rule was appealed to the U.S. Court of Appeals for the District of Columbia Circuit. In response to a motion by the Commission, the court remanded the rule for further consideration. After further consideration, the Commission is now proposing to revise the filing fees regulations adopted in Order No. 494.

III. Discussion

A. Purpose and Objectives

The Commission proposes to replace the current two-class filing fee schedule with a five-class filing fee schedule. This new schedule is intended to reflect more accurately the relationship between the fees charged and the work necessary to process the rate filings for electric utilities covered by sections 205 and 206 of the FPA.[15] In addition, certain categorical reductions are proposed, in an effort to ameliorate potential situations of unfairness or hardship, and to avoid discouraging certain types of filings.

B. Proposed Electric Rate Filing Fee Categories

(1) Class I rate filings

The proposed Class I category, for which no fee would be charged under the proposed rule, would include two distinct types of filings: (1) Filings having no effect on the rate the utility charges; and (2) rate decreases.[16]

Filings that have no effect on the rate the utility charges generally do not require substantial technical analysis. Instead, these filings usually require only routine administrative processing. Consequently, the Commission does not expend much time on them. Utility filings that would be classified as Class I filings for fee purposes would include, but not be limited to: changes in delivery points, delivery voltage, or contract demand; notices of cancellation; notices of succession; and informational filings.

Rate decrease filings, on the other hand, generally require a substantial amount of technical analysis. This analysis is virtually the same as that required for rate increase filings because in many instances it is only after an extensive analysis that the Commission is able to determine that a particular rate decrease is reasonable. Notwithstanding the amount of technical analysis required to evaluate the reasonableness of a proposed rate decrease, the Commission proposes that no filing fee be imposed for rate decrease filings in order to avoid a disincentive to utilities to file for appropriate rate reductions in a timely manner.

(2) Class II Rate Filings

The proposed Class II category would include those rate schedule filings that would not qualify for inclusion in another fee category, *i.e.*, those filings that would have an effect on the rate the utility charges for service but are neither rate increases nor rate decreases. Due to their effect on rates, substantive

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[6] *National Cable Television Association, Inc.* v. *FCC*, 554 F.2d 1094, 1100 (DC Cir. 1976) (the agency "must identify the activity which justifies each particular fee it assesses"). *See also Federal Power Commission* v. *New Enoland Power Co.* at 349–351 (invalidating assessments against jurisdictional utilities in proportion to their wholesale sales and interchange of electricity since the "thrust of the Act" reached only specific charges for specific services to "specific individuals or companies" and the Commission's formula could result in charges to companies which had no proceedings before the Commission during the year in question).

[7] *Electronic Industries Association* v. *FCC*, 554 F.2d 1109, 1114 (DC Cir. 1976) ("require a certain nexus, a threshold level of private benefit between the regulatee and the agency before a fee can be assessed against the recipient of the service").

[8] *Id.* at 1116 ("we interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is practical").

[9] *Id.* at 1117 ("This involves (a) an allocation of specific direct and indirect expenses which form the cost basis for the fee to the smallest practical unit; (b) exclusion of any expenses incurred to serve an independent public interest; and (c) a public explanation of the specific expenses included in the cost basis for a particular fee, and an explanation of the criteria used to include or exclude particular terms.").

[10] *National Cable Television Association, Inc.* v. *FCC* at 1105–06 ("Any computation such as those must necessarily be based on numerous approximations and can only be expected to be accurate within reasonable limits. It is sufficient for the Commission to identify the specific items of direct or indirect cost incurred in providing each service or benefit for which it seeks to assess a fee, and then to divide that cost among the members of the recipient class * * * in such a way as to assess each a fee which is roughly proportional to the 'value' which that member has thereby received").

[11] 52 FR 43,612 (Nov. 13, 1987), FERC Stats. & Regs. (Proposed Regulations 1982–1987) ¶ 32,454 (1987). The two-class system replaced the three-class system that had been promulgated in Order No. 435. The three-class system consisted of: Class 1, "Filings having no effect on the rate the utility charges or involving only rate decreases;" Class 2, "Filings that have an effect on the rate the utility charges and that are not supported by Period II data;" and Class 3, "Filings that involve the submission of Period II cost of service data." (*See* former 18 CFR 381.502 through 381.504.)

[12] Under the then-existing three-class fee classification system, the Commission had found it administratively difficult to make a prompt and accurate determination of the appropriate fees because of ambiguous, multiple and misclassified filings.

[13] The Commission decided that administrative ease supported eliminating fees for filings that would have no effect on rates or would involve only rate decreases.

[14] 43 FERC ¶ 61,464 (1988).

[15] Filings related to certain general activities permitted by the Commission's regulations are made by entities in the gas, oil pipeline, hydroelectric power and qualifying facilities industries, as well as in the electric power industry. The fees for such filings made by electric utilities are not included within the scope of this proposal. For instance, the fee for filing a petition for issuance of a declaratory order under § 385.207 of the Commission's Rules of Practice and Procedure is prescribed separately in § 381.307 of the Commission's regulations, and would not be affected by adoption of the regulations proposed herein. *See* 18 CFR 381.307 (1989). In addition, there are other fees for electric utility filings that fall beyond the scope of the proposals herein.

[16] These filings are not assessed filing fees under current regulations. There also are other types of utility submissions that are filed pursuant to FPA sections 205 and 206 that are not assessed filing fees. These filings, primarily compliance filings and requests for extension of time to respond to deficiency letters, are submitted in response to Commission opinions, orders and letters, in cases where a fee, if appropriate, has already been charged. No change in the fee status for these filings is proposed.

technical analysis is required for these filings and, therefore, they are different from the proposed Class I rate filings that are not rate decreases.

Proposed Class II rate filings would generally include, but not be limited to, those submittals by utilities that propose initial [17] rates for service to customers. Consequently, initial rate filings by new jurisdictional entities,[18] filings to place new customers on a utility's existing rate schedule for an electric service, and electric facilities charges, would be subject to the proposed Class II filing fee.

The fee for rate filings classified as Class II filings would be determined based on the actual average cost [19] of processing those utility submittals.[20] To the extent that the existence of appropriate historical data permits, the fees would be based on three-year rolling averages, in conformity with § 381.104.[21] However, since this proposed rule would change the current filing fee classifications, historical data are not yet available with respect to the new classifications.[22]

(3) Classes III, IV and V Rate Filings

The proposed Classes III, IV and V would include rate schedule filings that are rate increases [23] and that are supported by, respectively: (a) Abbreviated cost-of-service data [24] (Class III); (b) Period I cost-of-service data [25] (Class IV); and (c) Period II cost-of-service data [26] (Class V). The Commission is proposing three separate fee categories for rate increases because, in the Commission's experience, the amount of technical analysis required for each type of rate increase is significantly different, resulting in different processing costs to the Commission.

For example, a rate increase that is supported by Period II cost-of-service data requires, on average, more technical analysis than one supported by Period I cost-of-service data or abbreviated cost-of-service data. When a Period II cost-of-service study, which reflects projected costs for a future period, is filed, a Period I cost-of-service study must also be submitted. In evaluating the reasonableness of the requested rate increase, the Commission considers, among other things, cost trends developed from the historical Period I data in evaluating the projected changes in costs included in the Period II data. On the other hand, rate increases not supported by projected costs for future periods (*i.e.*, those supported by Period I historical data or abbreviated cost-of-service data) do not require this additional and extensive analysis by the Commission. Accordingly, the three filing fee categories for rate increases should accurately reflect the relationship between the fees charged for filing and the costs incurred for processing the various types of rate increases.[27]

C. Categorical Reductions in Fees.

The Commission is proposing a Categorical reduction of 60 percent in the filing fees for transactions that involve fewer than 10 megawatts of capacity or 10 megawatts per hour of energy and that last for periods of six months or less.[28] The Commission also is proposing a categorical reduction of 60 percent in the fees for filings by utilities other than "major" utilities.[29]

In Order No. 361, the Commission recognized that there might be instances in the future when full cost recovery of fees might have an adverse impact on certain classes of applicants or might undermine Commission activities.[30]

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[17] The term "initial rate" is discussed comprehensively in Southwestern Electric Power Co., 39 FERC ¶ 61,099 (1987).

[18] Examples would include independent power producers, power marketers and energy brokers, and those qualifying facilities not exempt from Commission rate jurisdiction under the Public Utility Regulatory Policies Act (PURPA).

[19] The use of average costs to process submittals within a specific fee category is consistent with the Commission's current practice for computing filing fees.

[20] Consistent with general Commission practice, all fees have been rounded down to the nearest $10.00 increment.

[21] The Commission recently adopted the three-year rolling average for determining filing fees in Order No. 521, an interim rule issued on March 23, 1990. See 55 FR 12,169 (Apr. 2, 1990); III FERC Stats. & Regs. ¶ 30,884 (Mar. 23, 1990).

[22] Because of limitations in the historical data, for the first year of implementation of this proposed rule the Class II filing fee would be based on the average workmonths of a Class I filing during the final full fiscal year of implementation of the previous three-class system multiplied by the average cost per workmonth in 1987–1989. (The Commission expects that such a fee will, at worst, err on the side of undercharging for the costs actually incurred by the Commission.) During the second year of implementation, an average cost for the proposed Class II items filed during the first year of implementation of the new system would become available, and such average cost would constitute the second year filing fee for Class II items. During the third year of implementation the average cost for the proposed Class II filing during the first two years of implementation would become available and such two-year average cost would constitute the third year filing fee for Class II items. Finally, during the fourth year of implementation, and in succeeding years, the Commission would have sufficient data to determine a three-year rolling average.

[23] Rate increases include circumstances where a utility increases a customer's rate to a level that has already been accepted for other customers.

[24] The abbreviated cost-of-service information filing requirements are set forth in § 35.13(a)(2) of the Commission's regulations. 18 CFR § 35.13(a)(2) (1989).

[25] "Period I" is defined in § 35.13(d)(3)(i) of the Commission's regulations. 18 CFR § 35.13(d)(3)(i) (1989). In general terms, Period I data consist of cost-of-service statements that reflect actual costs for a historical period. 18 CFR § 35.13(h) (1989).

[26] "Period II" is defined in § 35.13(d)(3)(ii) of the Commission's regulations. 18 CFR § 35.13(d)(3)(ii) (1989). In general terms, Period II data consist of cost-of-service statements that reflect projected costs for a future period. 18 CFR § 35.13(h) (1989).

[27] As in the case of Class II filings, recent historical data for proposed Classes III, IV and V are not available separately, but only for the three classes combined. Accordingly, for the first year of implementation of this proposed rule, the Class III filing fee would be based on the average workmonths per completion of a Class I II filing during the final full fiscal year of implementation of the previous three-class system, multiplied by the average cost per workmonth in 1987–1989 (i.e., three years). Proposed Class IV would be treated in an identical manner. These filings would therefore be assessed the same dollar amount in the first year under the proposed system that they would have been assessed if the former three-class system had remained in effect. Such filing fees would understate the actual costs to the Commission of processing Classes III and IV filings. The filing fee for Class V would be based on the average workmonths for a Class III filing under the previous three-class system (the definitions match) for the final three fiscal years of implementation of that system, multiplied by the average cost per workmonth in 1987–1989 (i.e., three years). During the second year of implementation, the average cost for a filing in each rate increase class during the previous year would constitute the fee for that class. During the third year of implementation the average cost for filings in each rate increase class during the previous two years would constitute the fee for that class. Finally, during the fourth year, and in succeeding years, the fees would be based on a three-year rolling average.

[28] The various types of 60 percent categorical reductions discussed in this section would not operate cumulatively. Any given filing could qualify for one 60 percent reduction, if it met the appropriate requirements. However, even if the filing met more than one definitional standard, it could not qualify for more than one 60 percent reduction.

[29] Utilities are classified as "major" and "nonmajor" in part 101, General Instructions, of the Commission's accounting regulations. A utility is a "major" utility if, in each of the last three consecutive years, it had sales or transmission service that exceeded any one or more of the four following limitations: (1) One million megawatt-hours of total sales; (2) 100 megawatt-hours of sales for resale; (3) 500 megawatt-hours of gross interchange out; or (4) 500 megawatt-hours of wheeling for others (deliveries plus losses). A "nonmajor" utility is one that had total sales in each of the last three consecutive years of 10,000 megawatt hours or more, and that cannot be classified as "major." The term "other than major" is used in the proposed regulations to describe the utilities eligible for a 60 percent categorical reduction so as not to exclude the smallest utilities, *i.e.*, those utilities that are not "major" utilities, but also are not "nonmajor" ones because they had total sales in each of the last three consecutive years of less than 10,000 megawatt hours. *See* 18 CFR part 101, General Instructions (1989).

[30] FERC Stats. & Regs. (Regulations Preambles 1982–1985) ¶ 30,543 at 30,878.

Subsequently, in Order No. 395, the Commission first applied a categorical reduction of 60 percent in fees applicable to certain general activities, *i.e.*, fees for petitions for declaratory order, review of Department of Energy (DOE) denials of adjustments and review of DOE remedial orders.[31] The Commission stated that the average cost per completion for these filings is such that full recovery of these costs would substantially discourage the use of these services. Accordingly, as a matter of administrative fairness, the Commission adopted a categorical reduction for each of these three categories of general activities.

More recently, the Commission in Order No. 506–A adopted a final rule that included a categorical reduction of 60 percent in the fees for rate and tariff filings made by other than major natural gas companies pursuant to §§ 381.204 and 381.205 of the Commission's regulations. The Commission deemed the 60 percent categorical reduction to be necessary to prevent a disproportionate economic impact on small pipelines. This decision was based on a policy judgment by the Commission representing its best estimate of the magnitude of reduction necessary to avoid that disproportionate economic impact.[32]

Similarly, in this rulemaking the Commission proposes a reduction in fees to less than full cost recovery for (1) small, short-term transactions and (2) small entities. The purpose of this reduction is to prevent filing fees from discouraging small, short-term transactions, or from having a disproportionate economic impact on small utilities. As was the case in Order No. 506–A, this proposed 60 percent categorical reduction is a policy judgment by the Commission representing its best estimate of the magnitude of reduction appropriate to avoid these effects.[33]

Finally, the Commission is proposing a filing fee for proposed Class V filings, *i.e.*, those supported by Period II data, that would recover only 50 percent of the costs of processing those filings. Implementation of a fee for proposed Class V filings, based on existing historical fees data, that would recover all of the costs of processing those filings, would result in a first year filing fee of $47,860. This would be almost an eight-fold fee increase for Class V filings from the present fee of $6,120, and might have an unduly disruptive impact. Accordingly, the Commission is proposing a fee that would recover only 50 percent of the processing costs in order to provide a smooth and reasonable transition between the current regulations and full implementation of a new fees schedule.[34] The 60 percent categorical reductions discussed above would also be applied to the reduced Class V fee, as appropriate.

IV. Summary

Following is a summary of the electric rate filing fee categories and fees proposed in this NOPR.

Class I Rate Filings

Definition—filings that involve only rate decreases or that have no effect on the rate the utility charges.

Fee—there is no fee.

Class II Rate Filings

Definition—filings that have an effect on the rate the utility charges but do not involve rate decreases or rate increases.

Fee—the fee is $2,970; the fee with a 60 percent categorical reduction is $1,180.

Class III Rate Filings

Definition—rate increase filings that qualify for the abbreviated cost-of-service information filing requirements as defined in § 35.13(a)(2) of the Commission's regulations.

Fee—the fee is $4,360; the fee with a 60 percent categorical reduction is $1,740.

Class IV Rate Filings

Definition—rate increase filings that qualify for the submission of only Period I cost-of-service information (or Period I and abbreviated cost-of-service information) as defined in § 35.13(d)(1) of the Commission's regulations.

Fee—the fee is $4,360; the fee with a 60 percent categorical reduction is $1,740.

Class V Rate Filings

Definition—rate increase filings that require the submission of Period II cost-of-service information (either alone or in conjunction with either Period I or abbreviated cost-of-service information) as defined in § 35.13(d)(2) of the Commission's regulations.

Fee—the fee is $23,930; the fee with a 60 percent categorical reduction is $9,570.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) [35] generally requires a description and analysis of rules that will have a significant economic impact on a substantial number of small entities. The categorical reductions proposed for certain filings by specific types of small entities would have a favorable financial impact on small entities. In addition, the revised classification of filing fee schedules as a whole, proposed in this docket, may lessen the economic impact of certain filing fees that might otherwise discourage certain transactions. The Commission believes, therefore, that issuance of the rule proposed herein would have in the aggregate a beneficial impact on small entities rather than a negative impact. The Commission concludes, therefore, that this impact would not be "significant" within the meaning of the RFA. Accordingly, the Commission certifies that issuance of this proposed rule, if adopted, will not have a "significant economic impact on a substantial number of small entities".

VI. Environmental Statement

The Commission concludes that issuance of this rule would not represent a major federal action having a significant adverse effect on the human environment under the Commission regulations implementing the National Environmental Policy Act.[36] This rule would be procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment are required.[37]

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[31] Order No. 395, 49 FR 35,348 (Sept. 7, 1984); FERC Stats. & Regs. [Regulations Preambles 1982–1985] ¶ 30,592 (1984).

[32] Order No. 506–A, 54 FR 5424 (Feb. 3, 1989); III FERC Stats. & Regs. ¶ 30,846 (1989).

[33] The proposed 60 percent categorical reduction for small systems and small, short-term transactions is not based on reevaluation of the cost of processing particular types of filings. Rather, it is based on potential hardship, and/or avoiding fees that might discourage desirable transactions. The Commission's experience is that the average time required to process the rate filings that would be subject to the fee reduction is not significantly lower than the average time required to process rate filings that would not be affected. Accordingly, there would be no change in the rate filing fees for those other transactions (although the effect of the proposed reduction would be reflected in the amount of money to be recovered through the Commission's annual charges assessed under OBRA).

[34] As in the case of the 60 percent categorical reductions, the effect of the recovery of less than full costs of processing Class V filings would be reflected in the amounts recovered through annual charges assessed under OBRA.

[35] 5 U.S.C. 601–612 (1988).

[36] 52 FR 47,897 (Dec. 17, 1987), III FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987) (*codified at* 18 CFR part 380).

[37] See 18 C.F.R. 380.4(a)(1) (1989).

VII. Information Collection Statement

The Office of Management and Budget (OMB) [38] requires that OMB approve certain information collection requirements imposed by agency rule. The regulations proposed in this proceeding would not impose any information collection requirements. Therefore the Commission will not submit these proposed regulations to OMB for review and approval.

VIII. Public Comment Procedures

Interested persons are invited to submit written comments on this Notice of Proposed Rulemaking to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Comments should refer to Docket No. RM87–26–003 on the outside of the envelope and on all documents submitted to the Commission. Fourteen copies should be submitted with the original.

Comments must be filed on or before July 5, 1990. Copies of the written comments may be obtained from the Commission's Division of Public Information, room 3308, 941 North Capitol Street, NE., Washington, DC 20426. Comments are available for public inspection during business hours at the same location. Copies of comments will be available for purchase.

List of Subjects in 18 CFR Part 381

Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend part 381, chapter I, title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission.

Lois D. Cashell,

Secretary.

PART 381—FEES

1. The authority citation for part 381 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1988); Federal Power Act, 16 U.S.C. 791–828c (1988); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1988); Interstate Commerce Act, 49 U.S.C. 1–27 (1976); Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, Title III, Subtitle E, Sec. 3401 (October 21, 1986).

2. Section 381.502 is revised to read as follows:

[38] 5 CFR 1320.13 (1989)

§ 381.502 Rate Schedule Filings under sections 205 and 206 of the Federal Power Act.

(a) Unless the Commission orders direct billing under § 381.107 or otherwise, the fees established for rate schedule filings under sections 205 and 206 of the Federal Power Act will be determined within one of five filing classes, as provided in paragraphs (b), (c), (d), (e) and (f) of this section. Fees filed under this paragraph must be submitted in accordance with subpart A of this part and part 35 of this chapter.

(b) *Class I rate schedule filings.*—(1) *Definition.* For purposes of this section, "Class I rate schedule filings" are those filings under sections 205 and 206 of the Federal Power Act that involve only rate decreases or that have no effect on the rate the utility charges.

(2) *Fee.* There is no fee for a Class I rate schedule filing.

(c) *Class II rate schedule filings.*—(1) *Definition.* For purposes of this section, "Class II rate schedule filings" are those filings under sections 205 and 206 of the Federal Power Act that have an effect on the rate the utility charges but do not involve rate decreases or rate increases.

(2) *Fee.* (i) Except as provided in paragraphs (c)(2) (ii) and (iii) of this section, the fee is $2,970.

(ii) For transactions involving fewer than 10 megawatts of capacity or 10 megawatts per hour of energy for periods of six months or less, the fee is $1,180.

(iii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $1,180.

(d) *Class III rate schedule filings.*—(1) *Definition.* For purposes of this section, "Class III rate schedule filings" are those rate increase filings under sections 205 and 206 of the Federal Power Act that qualify for the abbreviated cost-of-service information filing requirements as defined in § 35.13(a)(2) of this chapter.

(2) *Fee.* (i) Except as provided in paragraphs (d)(2) (ii) and (iii) of this section, the fee is $4,360.

(ii) For transactions involving fewer than 10 megawatts of capacity or 10 megawatts per hour of energy for periods of six months or less, the fee is $1,740.

(iii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $1,740.

(e) *Class IV rate schedule filings.*—(1) *Definition.* For purposes of this section, "Class IV rate schedule filings" are those rate increase filings under sections 205 and 206 of the Federal Power Act that qualify for the submission of only Period I cost-of-service information (or Period I and abbreviated cost-of-service information) as defined in § 35.13(d)(1) of this chapter.

(2) *Fee.* (i) Except as provided in paragraph (e)(2)(ii) of this section, the fee is $4,360:

(ii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $1,740.

(f) *Class V rate schedule filings.*—(1) *Definition.* For purposes of this section, "Class V rate schedule filings" are those rate increase filings under sections 205 and 206 of the Federal Power Act that require the submission of Period II cost-of-service information (either alone or in conjunction with either Period I or abbreviated cost-of-service information) as defined in § 35.13(d)(2) of this chapter.

(2) *Fee.* (i) Except as provided in paragraphs (f)(2) (ii) and (iii) of this section, the fee is $23,930.

(ii) For utilities other than major utilities, as defined in part 101, General Instructions, of this chapter, the fee is $9,570.

[FR Doc. 90–12800 Filed 6–1–90; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket Number 90–4]

RIN 2125–AA16

Contract Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA proposes to revise its regulations on Construction and Maintenance Contract Procedures. These regulations prescribe policies, requirements, and procedures relating to Federal-aid highway projects from the time of authorization to proceed to the construction stage, to the time of final acceptance by the FHWA. The regulations are being revised to accommodate several policy changes and clarify and simplify the regulatory requirements pertaining to the contracting for Federal-aid highway construction.

DATES: Comments must be received on or before August 3, 1990.

ADDRESSES: Submit written and signed comments to the Federal Highway Administration. HCC–10, FHWA Docket

No. 90–4, room 4232, 400 Seventh Street SW., Washington, DC 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Weseman, Chief, Construction and Maintenance Division, Office of Highway Operations, 202–366–0392, or Mr. Michael J. Laska, Office of Chief Counsel, 202–366–1383, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The existing regulation on contract procedures is being revised to accommodate several policy changes and clarifications issued by Washington Headquarters to the field during the past several years. Also incorporated are several suggested changes from previous Office of the Inspector General (OIG) reviews. The revisions include but are not limited to the following: (a) A full time State employed engineer no longer needs to be in direct control of the project at all times; (b) highway relocation provisions are no longer included in this subpart as they are addressed in subpart C; (c) additional guidance is provided on analysis of bids; and (d) it is indicated that only contracts terminated for default should be subject to a limitation of Federal participation. In addition, the order of presentation of several of the sections has been rearranged to more closely correspond with the orderly process of a Federal-aid project.

Section-By-Section Discussion

The following is a section-by-section discussion of the proposed revisions to 23 CFR part 635, subpart A—Contract Procedures.

Section 635.101 Purpose.

No text change.

Section 635.102 Definitions.

The definition for "minority contractor" would be relocated and defined elsewhere. New definitions for "local public agency," "materially unbalanced bid," "major change or major extra work," "mathematically unbalanced bid," "public agency," "publicly owned equipment," and "specialty items" would be added to define new terms in the regulations.

Section 635.103 Applicability.

The reference to § 635.105(e) would be dropped as this paragraph would be deleted. In addition, the secondary road plan would be specifically identified as excluded from the revisions of these regulations.

Section 635.104 Method of construction.

The section is proposed to be restructured slightly to improve clarity.

Section 635.105 Supervising agency.

In addition to some grammatical changes, the section is proposed to no longer specify that a full time State employed engineer will be "in responsible charge and direct control of the project at all times," rather it would now specify that the full time State employed engineer will be "in responsible charge of the project." The conditions for approval of a local agency to perform work would be simplified and the paragraph addressing work by other Federal agencies would be deleted.

Section 635.106 Small business participation.

It is proposed to relocate the current text and heading to § 635.107. The title of this section would be changed to read "Use of publicly owned equipment," which is currently found at § 635.119. The section's definition of "publicly owned equipment" would be included in the "Definitions" section.

Section 635.107 Advertising for bids.

It is proposed to relocate the current text and heading to § 635.112. The title of this section would be changed to read "Small and disadvantaged business participation," which is currently found at § 635.106. The title would be changed from "Small business participation" to acknowledge the incorporation of disadvantaged business participation guidance. The section would be revised to direct the SHA to affirmatively encourage disadvantaged business participation in accordance with Title VI of the Civil Rights Act of 1964, subsequent Federal-aid Highway Acts, and 49 CFR Part 23.

Section 635.108 Licensing and qualification of contractors.

It is proposed to relocate the current text and heading to § 635.110. The title of this section would be changed to "Health and safety," which is currently found at § 635.125. No text changes are proposed to be made to this section.

Section 635.109 Bid opening and bid tabulation.

It is proposed to relocate the current text and heading to § 635.113. The title of this section would be changed to "Standardized changed condition clauses," which is currently found at § 635.131. This section is proposed to be modified slightly. The discussion of secondary impact (paragraph(a)(3)(ii)) would be slightly reworded to improve clarity. Additional language is proposed to be added to clarify that State developed clauses (paragraph (b)(2)) would be subject to FHWA approval as part of the Plans, Specifications, and Estimate (PS&E) approval phase.

Section 635.110 Tied bids.

It is proposed to relocate the current text and heading to § 635.111. The title of this section would be changed to read "Licensing and qualification of contractors," which is currently found at § 635.108. Paragraph (c) is proposed to be shortened to eliminate a deadline which is no longer applicable. A new paragraph would be added addressing contractors who are currently suspended, debarred or voluntarily excluded under 49 CFR part 29 from participating in the Federal-aid highway program.

Section 635.111 Award of contract and concurrence in award.

It is proposed to relocate the current text and heading to § 635.114. The title of this section would be changed to read "Linked bids," which is currently found at § 635.110 and named "Tied bids". The order of paragraphs (b) and (c) is proposed to be revised and some language modified for clarity. In addition, paragraph (c) would be revised to permit Federal participation in the cost of tied work on the basis of the unit prices presented in the lowest overall bid proposal rather than just Federal-aid projects as had previously been the case.

Section 635.112 Agreement estimate.

It is proposed to relocate the current text and heading to § 635.115. The title of this section would be changed to read "Advertising for bids," which is currently found at § 635.107. The paragraph dealing with the Highway Relocation Assistance Program is proposed to no longer be included in this section as these requirements are included in Subpart C. The section (paragraph c) would require that the SHA shall obtain the approval of the Division Administrator prior to issuing addenda for major changes.

The paragraph addressing nondiscrimination against the purchase of a surety bond or insurance policy from any surety or insurer outside the State and authorized to do business in the State is proposed to be deleted. This change is in keeping with the requirements of 49 CFR part 18 which leaves the control and regulation of the surety bonding and insurance up to the State. The paragraph addressing relocation and right-of-way acquisition (paragraph (h)) is also proposed to be deleted as the requirements are adequately addressed in subpart C. The language of the requirement for a noncollusion provision would be revised slightly to clearly indicate that States may chose where to apply a sworn affidavit or an unsworn declaration. Finally, it is proposed that a paragraph be added which indicates that SHA's shall include the lobbying certification requirement pursuant to 49 CFR part 20.

Section 635.113 Subcontracting.

It is proposed to relocate the current text and heading to § 635.116. The title of this section would be changed to read "Bid opening and bid tabulation," which is currently found at § 635.109. The section would be revised to include that negotiations with contractors, following advertisement and opening of bids for the purpose of reducing the contract price before the award of contract shall not be permitted.

Also, a requirement would be added that the engineer's estimate is to be included in the tabulation of bids forwarded to the Division Administrator.

Section 635.114 Participation in progress payments.

It is proposed to relocate the current text and heading to § 635.122. The title of this section would be changed to read "Award of contract and concurrence in award." The "Award of contract and concurrence in award" section is § 635.111 in the current rule. This section would be revised significantly. The term "responsive" would be used to describe an acceptable bid. Its use would be consistent with 23 U.S.C. 112(b)(1). Additional guidance is proposed to be incorporated into the section dealing with analysis of bids and the steps to take when mathematically and materially unbalanced bids are discovered. The concept of what constitutes a nonresponsive or irregular bid would be simplified. The previous list of items would be deleted and instead a requirement would be added that the State clearly identify in the bidding documents those items that must be complied with to make the bid responsive. Also a paragraph would be added to clarify that States may dispose of forfeited bid guarantee monies as they determine. Finally, § 635.123 is proposed to be incorporated into the section as paragraph (k).

Section 635.115 [Added] Agreement estimate.

The title of this section is proposed to read "Agreement estimate." The "Agreement estimate" section is § 635.112 in the current rule. No text changes are proposed.

Section 635.116 [Added] Subcontracting.

The title of this section is proposed to read "Subcontracting." The "Subcontracting" section is § 635.113 in the current rule. The definition of "specialty items," is proposed to be removed from this section and placed in the "Definitions" section. Paragraph (c) would be expanded to provide States an alternative certification approach to satisfy the subcontract assurance requirement.

Section 635.117 [Added] Labor and employment.

It is proposed to relocate current § 635.124 to this section. The section would be restructured for clarity. In addition, several new paragraphs would be added to address preferential employment to Indians as provided in section 140(d) of title 23, U.S.C.

Section 635.118 [Added] Payroll and weekly statements.

It is proposed to relocate current § 635.130 to this section. The text would be revised to delete the requirement for a final labor certificate.

Section 635.119 Use of publicly owned equipment.

It is proposed to relocate the current text and heading to § 635.106. The title of this section would be revised to read "False statements," which is currently found at § 635.128. There would be no text changes.

Section 635.120 Participation in contract claim awards and settlements.

It is proposed to relocate the current text and heading to § 635.124. The title of this section would be revised to read "Changes and extra work," which is currently found at § 635.121. The section would be restructured for clarity. Language describing a major change would be removed and placed in the "definitions" section. A few paragraphs are proposed to be added to clarify agency policy on the use of force account and the need for an independent cost analysis of each negotiated contract change as well as clarification of time extension approval.

Section 635.121 Changes and extra work.

It is proposed to relocate the current text and heading to § 635.120. The title of this section would be revised to read "Contract time and contract time extensions," which is currently found at § 635.122. This section is proposed to be modified to indicate that States should have adequate approved written procedures for the determination of contract time. This would be added because on this item as related to contract claims and Incentive/Disincentive clauses.

Section 635.122 Contract time and contract time extensions.

It is proposed to relocate the current text and heading to § 635.121. The title of this section would be changed to read "Participation in progress payments," which is currently found at § 635.114. This section is proposed to be restructured to improve clarity. In addition, supplemental guidance would be added to clarify the agency's policy regarding the payment of stockpiled material.

Section 635.123 Submission of contract and force account documents.

It is proposed to relocate the current text and heading to § 635.114(k). The title of this section would be changed to read "Determination and documentation of pay quantities," which is currently found at § 635.128. No text change is proposed.

Section 635.124 Labor and employment.

It is proposed to relocate the current text and heading to § 635.117. The title of this section would be changed to read "Participation in contract claim awards and settlements," which is currently found at § 635.120. This section is proposed to be modified slightly to indicate that claims arising on projects handled under secondary road plan procedures should also be brought to the attention of the FHWA when the type of claim is unusual or controversial.

Section 635.125 Health and safety.

It is proposed to relocate the current text and heading to § 635.108. The title of this section would be changed to read "Termination of contract," which is currently found at § 635.126. The section title is proposed to be revised to delete "and default," since the term "termination" is all encompassing.

Further, the section would be modified to indicate that only contracts terminated for default should be subject to a limitation of Federal participation. Additional costs of defaulted contracts are a normal surety obligation.

Section 635.126 Termination and default of contract.

The title of this section would be changed to read "Record of materials, supplies, and labor," which is currently found at § 635.129. No text changes are proposed.

Section 635.127 False statements.

It is proposed to relocate the current text and heading to § 635.119.

Section 635.128 Determination and documentation of pay quantities.

It is proposed to relocate the current text and heading to § 635.123.

Section 635.129 Record of materials, supplies, and labor.

It is proposed to relocate the current text and heading to § 635.126.

Section 635.130 Payroll, weekly statement, and final labor certificate.

It is proposed to relocate a revised text and heading to § 635.118.

Section 635.131 Differing site conditions, suspensions of work and significant changes in the character of work.

It is proposed to relocate a revised text and heading to § 635.109.

A distribution table is provided to aid in following the proposed changes:

Proposed section	Existing section
635.101	635.101
635.102	635.102
635.103	635.103
635.104	635.104
635.105	635.105
635.106	635.119
635.107	635.106
635.108	635.125
635.109	635.131
635.110	635.108
635.111	635.110
635.112	635.107
635.113	635.109
635.114	635.111
635.115	635.112
635.116	635.113
635.117	635.124
635.118	635.130
635.119	635.127
635.120	635.121
635.121	635.122
635.122	635.114
635.123	635.128
635.124	635.120
635.125	635.126
635.126	635.129

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291, or a significant regulation under the regulatory policies and procedures of the Department of Transportation. It is anticipated that the regulatory impact of this proposed rulemaking, if any, will be minimal since the proposed amendment's will revise existing FHWA regulations on contract procedures and delineates acceptable procedures that are consistent with Federal statutes, OMB Circular No. A–102 and 49 CFR Part 18. The proposed revised regulations would impose mandatory standards that are required by Federal statutes, on State and local governments and provide general procedural direction and recommended criteria.

In it's entirety, however, the proposed regulation is less prescriptive and allows greater flexibility in administrating Federal-aid projects under the authority of Title 23, United States Code. Therefore, a final regulatory evaluation is not required.

For the foregoing reasons and under the criteria of the Regulatory Flexibility Act (Pub. L. 96–354), the FHWA hereby certifies that this proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. It has been determined that this document has federalism implications. However, the federalism implications are mandated by statute, and the agency has allowed the States the maximum administrative discretion under the statute. Therefore, a federalism assessment has not been prepared.

In consideration of the foregoing, the FHWA hereby proposes to amend Part 635, Subpart A of Chapter I of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

List of Subjects in 23 CFR Part 635

Government contracts, Grant programs—transportation, Highway and roads.

Issued on: May 24, 1990.

T.D. Larson,

Administrator.

PART 635—CONSTRUCTION AND MAINTENANCE

1. The authority citation for Part 635 continues to read as follows:

Authority: 23 U.S.C. 112, 113, 114, 117, 128, and 315; 31 U.S.C. 6506; 42 U.S.C. 3334, 4601, *et seq.*; 49 CFR 1.48(b).

2. Subpart A of part 635 is revised to read as follows:

Subpart A—Contract Procedures

Sec.

Subpart A—Contract Procedures

§ 635.101 Purpose.

To prescribe policies, requirements, and procedures relating to Federal-aid highway projects, from the time of authorization to proceed to the construction stage, to the time of final acceptance by the Federal Highway Administration (FHWA).

§ 635.102 Definitions.

As used in this subpart:

Administrator means Federal Highway Administrator.

Certification Acceptance means the alternative procedure which may be used for administering certain highway projects involving Federal funds pursuant to 23 U.S.C. 117.

Division Administrator means the chief FHWA official assigned to conduct business in a particular State. A State is as defined in 23 U.S.C. 101.

Local public agency means any county, township, municipality, or other political subdivision that may be empowered to cooperate with the State highway agency in highway matters.

Major change or major extra work means a change which will significantly increase the cost of the project to the Federal Government or alter the termini, character or scope of work.

Materially unbalanced bid means a bid which generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Government.

Mathematically unbalanced bid means a bid containing lump sum or unit bid items which do not reflect reasonable actual costs plus a reasonable proportionate share of the bidder's anticipated profit, overhead costs, and other indirect costs.

Public agency means any organization with administrative or functional responsibilities which are directly or indirectly affiliated with a governmental body of any nation, State, or local jurisdiction.

Publicly owned equipment means equipment previously purchased or otherwise acquired by the public agency involved primarily for use in its own operations.

Specialty items means work items which require highly specialized knowledge, abilities or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

State highway agency (SHA) means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" should be considered equivalent to "State highway agency" if the context so implies.

§ 635.103 Applicability.

The policies, requirements, and procedures prescribed in this subpart apply to all Federal-aid highway projects except those constructed under a certification acceptance plan or secondary road plan to which only §§ 635.107, 635.108, 635.110(c), 635.110(d), 635.112(d), 635.113 and 635.118 shall apply.

§ 635.104 Method of construction.

(a) Actual construction work shall be performed by contract awarded to the lowest responsible bidder; unless, as provided in § 635.104(b), the SHA demonstrates to the satisfaction of the Division Administrator that some other method is more cost effective or that an emergency exists. The SHA shall assure opportunity for free, open, and competitive bidding, including adequate publicity of the advertisements or calls for bids. The advertising or calling for bids and the award of contracts shall comply with the procedures and requirements set forth in § 635.112.

(b) When the Division Administrator finds that it is cost effective or that an emergency exists, construction work may be performed by some method other than by contract awarded by competitive bidding. Before such finding is made, the SHA shall determine that the organization to undertake the work is so staffed and equipped as to perform such work satisfactorily and cost effectively. Approval by the Division Administrator for construction by a method other than competitive bidding shall be requested by the State in accordance with subpart B of part 635 of this chapter.

§ 635.105 Supervising agency.

(a) The SHA has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by or under the supervision of a local public agency or other Federal agency. The SHA shall be responsible for ensuring that such projects receive adequate supervision and inspection to ensure that projects are completed in conformance with approved plans and specifications.

(b) When a project is not located on a highway system over which the SHA has legal jurisdiction, or when other special conditions warrant, the SHA may arrange for a local public agency having jurisdiction over such streets or highways to perform the work with its own forces, or to let a contract therefor, provided the conditions below are met and the Division Administrator approves such proposed arrangements in advance.

(1) In the case of force account work, there is full compliance with subpart B of this part.

(2) When the work is to be performed under a contract awarded by a local public agency, all Federal requirements including those prescribed in this subpart shall be met.

(3) The local public agency is adequately staffed and suitably equipped to undertake and satisfactorily complete the work.

(c) Although the SHA may employ a consultant to provide construction engineering services, such as inspection or survey work on a project, the SHA shall provide a full-time State-employed engineer to be in responsible charge of the project. In those instances where a local public agency elects to use consultants for these services, the local public agency shall have a similar duty to provide a full-time employee of the agency to be in responsible charge of the project.

§ 635.106 Use of publicly owed equipment.

(a) Publicly-owned equipment should not normally compete with privately owned equipment on a project to be let to contract. There may be exceptional cases, however, in which the use of equipment of the State or local public agency for highway construction purposes may be warranted or justified. A proposal by any SHA for the use of publicly owned equipment on such a project must be supported by a showing that it would clearly be cost effective to do so under the conditions peculiar to the individual project or locality.

(b) Where publicly owned equipment is to be made available in connection with construction work to be let to contract, Federal funds may participate in the cost of such work provided the proposed use of such equipment is clearly set forth in the Plans, Specifications and Estimate (PS&E) submitted to the Division Administrator for approval.

(c) In such cases the advertised specifications shall also specify the items of publicly owned equipment available for use by the successful bidder, the rates to be charged therefor, and the points of availability or delivery of the equipment, together with the express condition that the successful bidder has the option either of renting part or all of such equipment from the State or local public agency or otherwise providing the equipment necessary for the performance of the contract work.

(d) In the rental of publicly owned equipment to contractors, the State or local public agency shall not profit at the expense of Federal funds.

(e) Unforeseeable conditions may make it necessary to provide publicly owned equipment to the contractor at rental rates agreed to between the contractor and the State or county after the work has started. Any such arrangement shall not form the basis for

any increase in the cost of the project on which Federal funds are to participate.

(f) When publicly owned equipment is used on projects constructed on a force account basis, costs may be determined by agreed unit prices or on an actual cost basis. In the case of force account work to be performed by the SHA or local public agency at agreed unit prices, the equipment need not be itemized nor rental rates shown in the estimate. However, if such work is to be performed on an actual cost basis, the SHA shall submit to the Division Administrator for approval the schedule of rates proposed to be charged, exclusive of profit, for the publicly owned equipment made available for use.

§ 635.107 Small and disadvantaged business participation.

The SHA shall schedule contract lettings in a balanced program providing contracts of such size and character as to assure an opportunity for all sizes of contracting organizations to compete. In accordance with Title VI of the Civil Rights Act of 1964, subsequent Federal-aid Highway Acts, and 49 CFR part 23, the SHA shall affirmatively encourage disadvantaged business participation in the highway construction program.

§ 635.108 Health and safety.

Contracts for projects shall include provisions designed:

(a) To insure full compliance with all applicable Federal, State, and local laws governing safety, health, sanitation, and

(b) To require that the contractor shall provide all safeguards, safety devices, and protective equipment and shall take any other actions reasonably necessary to protect the life and health of persons working at the site of the project and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

§ 635.109 Standardized changed condition clauses.

(a) Except as provided in paragraph (b) of this section, the following changed conditions contract clauses shall be made part of, and incorporated in, each highway construction project approved under 23 U.S.C. 106:

(1) *Differing site conditions.* (i) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

(ii) Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

(iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the SHAs at their option.)

(2) *Suspensions of work ordered by the engineer.* (i) If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

(ii) Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The engineer will notify the contractor of his/her determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

(iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term or condition of this contract.

(3) *Significant changes in the character of work.* (i) The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

(ii) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding loss of anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

(iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

(iv) The term "significant change" shall be construed to apply only to the following circumstances:

(A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

(B) when a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

(b) The provisions of this section shall be governed by the following:

(1) Where State statute does not permit one or more of the contract clauses included in paragraph (a) of this section, the State statute shall prevail and such clause or clauses need not be

made applicable to Federal-aid highway contracts.

(2) Where the State highway agency has developed and implemented one or more of the contract clauses included in paragraph (a) of this section, such clause or clauses, as developed by the State highway agency may be included in Federal-aid highway contracts in lieu of the corresponding clause or clauses in paragraph (a) of this section. The State's action must be pursuant to a specific State statute requiring differing contract conditions clauses.

§ 635.110 Licensing and qualification of contractors.

(a) No procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors shall be approved which, in the judgment of the Division Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed. No contractor shall he required by law, regulation, or practice to obtain a license before he or she may submit a bid or before his or her bid may be considered for award of a contract. This, however, is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding. Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating. Requirements for the prequalification, qualification or licensing of contractors, that operate to govern the amount of work that may be bid upon by, or may be awarded to, a contractor, shall be approved only if based upon a full and appropriate evaluation of the contractor's capability to perform the work.

(b) The procedures and requirements a SHA proposes to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the Division Administrator for advance approval. Only those procedures and requirements so approved shall be effective with respect to Federal-aid highway projects. Any changes in approved procedures and requirements shall likewise be subject to approval by the Division Administrator.

(c) For the purposes of evaluating compliance with the requirements of title VI of the Civil Rights Act of 1964 and related statutes, the SHA shall establish procedures and maintain records that will identify contractors with regard to minority and nonminority classification.

(d) Contractors who are currently suspended, debarred or voluntarily excluded under 49 CFR part 29 or otherwise determined to be ineligible, shall be prohibited from participating in the Federal-aid highway program. Participants in the Federal-aid highway program must submit the certifications required by 49 CFR 29.510.

§ 635.111 Linked bids.

(a) Federal-aid projects or Federal-aid projects and State-financed projects may be linked together for bidding purposes where it appears that by so doing more favorable bids may be received. To avoid discrimination against contractors desiring to bid upon a lesser amount of work than that included in the linked combinations, provisions should be made to permit bidding separately on the individual projects whenever they are of such character as to be suitable for bidding independently.

(b) When Federal-aid and State-financed projects are linked together for bidding purposes, the bid schedule shall set forth the quantities separately for the Federal-aid work and the State-financed work. All proposals submitted for the linked projects must contain separate bid prices for each project individually. Federal participation in the cost of the work will be on the basis of the lowest overall bid proposal unless the analysis of bids reveals that mathematical unbalancing has caused an unsupported shift of cost liability to the Federal-aid work.

(c) Federal-aid projects and State-financed projects may be combined in one contract if the conditions of the projects are so similar that the unit costs on the Federal-aid projects will not be increased by such combinations of projects. In such cases, like quantities should be combined in the proposal to avoid the possibility of unbalancing of bids in favor of either of the projects in the combination.

§ 635.112 Advertising for bids.

(a) No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to authorization by the Division Administrator.

(b) The advertisement must be available to bidders a minimum of 3 weeks prior to opening of bids except that shorter periods may be approved by the Division Administrator in special cases when justified.

(c) The SHA shall obtain the approval of the Division Administrator prior to issuing any addenda which contain a major change to the approved plans and specifications during the advertising period. Minor addenda need not receive prior approval but should be identified by the SHA at the time of FHWA concurrence in award. The SHA shall provide assurance that all bidders have received all issued addenda.

(d) Nondiscriminatory bidding procedures shall be afforded to all qualified bidders regardless of State or local boundaries and without regard to race, color, sex, or national origin. If any provisions of State laws, specifications, regulations, or policies may operate in any manner contrary to Federal requirements, including Title VI of the Civil Rights Act of 1964, to prevent submission of a bid, or prohibit consideration of a bid submitted by any responsible bidder appropriately qualified in accordance with § 635.110, such provisions shall not be applicable to Federal-aid projects. Where such nonapplicable provisions exist, notices of advertising, specifications, special provisions or other governing documents shall include a positive statement to advise prospective bidders of those provisions that are not applicable.

(e) No public agency shall be permitted to bid in competition or to enter into subcontracts with private contractors.

(f) The SHA shall include a noncollusion provision substantially as follows in the advertised specifications:

> Each bidder shall file a sworn (or unsworn) statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid. Failure to submit the sworn (or unsworn) statement as part of the bid proposal package will make the bid nonresponsive and not eligible for award consideration.

(1) The required form for the sworn affidavit or the unsworn declaration will be provided by the State to each prospective bidder.

(2) The sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths.

(3) As an alternative, the unsworn statement shall be in the form of a

declaration executed under penalty of perjury of the laws of the United States.

(g) The SHA shall include the lobbying certification requirement pursuant to 49 CFR part 20.

§ 635.113 Bid opening and bid tabulations.

(a) All bids received in accordance with the terms of the advertisement shall be publicly opened and announced either item by item or by total amount. If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting. Negotiation with contractors, following advertisement and opening of bids for the purpose of reducing the contract price before the award of the contract shall not be permitted.

(b) The SHA shall prepare and forward tabulations of bids to the Division Administrator. These tabulations shall be certified by a responsible SHA official and shall show:

(1) Item details for at least the low three acceptable bids and the engineer's estimate and

(2) The total amounts of all other acceptable bids.

§ 635.114 Award of contract and concurrence in award.

(a) The SHA shall formally request concurrence by the Division Administrator in the award of all Federal-aid contracts. Concurrence in award by the Division Administrator is a prerequisite to Federal participation in construction costs and is considered as authority to proceed with construction, unless specifically stated otherwise. Concurrence in award shall always be confirmed in writing and shall only be given after receipt and review of the tabulation of bids.

(b) Contracts shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility as may have been established by the SHA in accordance with § 635.110. Award shall be within the time established by the SHA and subject to the prior concurrence of the Division Administrator.

(c) Following the opening of bids, unit bid prices of the apparent low bid shall be examined for reasonable conformance with the engineer's estimated prices. A bid with extreme variations from the engineer's estimate, or where obvious unbalancing of unit prices has occurred, shall be thoroughly evaluated by the SHA.

(d) Where obvious unbalanced bid items exist, the SHA's recommendation to award or reject a bid shall be supported by written justification. A bid found to be mathematically unbalanced, but not found to be materially unbalanced may be awarded if the SHA's specifications permit.

(e) When a low bid is determined to be both mathematically and materially unbalanced, the Division Administrator will take appropriate steps to protect the Federal interest. This action may be concurrence in a SHA decision not to award the contract. If, however, the SHA decides to proceed with the award and requests FHWA concurrence, the Division Administrator's action may range from nonconcurrence to concurrence with contingency conditions limiting Federal participation.

(f) If the SHA determines that the lowest bid is not responsive or the bidder is not responsible, it shall so notify the Division Administrator and obtain his/her concurrence before making an award to the next lowest bidder.

(g) The SHA shall clearly identify in the bidding documents those requirements which the bidder must assure are complied with to make the bid responsive. Failure to comply with these identified bidding requirements shall make the bid nonresponsive and not eligible for award consideration.

(h) If the SHA proposes to reject or decline to read or consider a low bid on the grounds that it is not responsive because of noncompliance with a requirement which was not clearly identified in the bidding documents, it shall submit justification for its proposed action. If such justification is not considered by the Division Administrator to be sufficient, concurrence will not be given to award to another bidder on the contract at the same letting.

(i) Any proposal by the SHA to reject all bids received for a Federal-aid project shall be submitted to the Division Administrator for concurrence, accompanied by adequate justification.

(j) In the event the low bidder selected by the SHA for contract award forfeits the bid guarantee, the SHA may dispose of the amounts of such forfeited guarantees in accordance with its normal practices.

(k) A copy of the contract between the SHA and the construction contractor and of each force account agreement shall be furnished to the Division Administrator as soon as practicable after it is executed.

§ 635.115 Agreement estimate.

(a) Following the award of contract, an agreement estimate based on the contract unit prices and estimated quantities shall be prepared by the SHA and submitted to the Division Administrator as soon as practicable for use in the preparation of the project agreement. The agreement estimate shall also include the actual or best estimated costs of any other items to be included in the project agreement.

(b) An agreement estimate shall be submitted by the SHA for each force account project when the plans and specifications are submitted to the Division Administrator for approval. It shall normally be based on the estimated quantities and the unit prices agreed upon in advance between the SHA and the Division Administrator, whether the work is to be done by the SHA or by a local public agency. Such agreed unit prices shall constitute a firm commitment as the basis for Federal participation in the cost of the project. The unit prices shall be based upon the estimated actual cost of performing the work but shall in no case exceed unit prices currently being obtained by competitive bidding on comparable highway construction work in the same general locality. In special cases involving unusual circumstances, the estimate may be based upon the estimated costs for labor, materials, equipment rentals, and supervision to complete the work rather than upon agreed unit prices. This paragraph shall not be applicable to agreement estimates for railroad and utility force account work.

§ 635.116 Subcontracting.

(a) Contracts for projects shall specify the minimum percentage of work that a contractor must perform with its own organization. This percentage shall be not less than 30 percent of the total original contract price excluding any identified specialty items. Specialty items may be performed by subcontract and the amount of any such specialty items so performed may be deducted from the total original contract before computing the amount of work required to be performed by the contractor's own organization. The contract amount upon which the above requirement is computed includes the cost of materials and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

(b) Upon the request of a SHA, the requirements of paragraph (a) of this section may be modified in whole or in part by the FHWA to such extent as the FHWA determines to be in the public interest.

(c) The SHA shall not permit any of the contract work to be performed under a subcontract, unless such arrangement has been authorized by the SHA in writing. Prior to authorizing a

subcontract, the SHA shall assure that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. The Division Administrator may permit the SHA to satisfy the subcontract assurance requirements by concurrence in a SHA process which requires the contractor to certify that each subcontract arrangement will be in the form of a written agreement containing all the requirements and pertinent provisions of the prime contract. Prior to the Division Administrator's concurrence, the SHA must demonstrate that it has an acceptable plan for monitoring such certifications.

(d) To assure that all work (including subcontract work) is performed in accordance with the contract requirements, the contractor shall be required to furnish:

(1) A competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work), and;

(2) Such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

§ 635.117 Labor and employment.

(a) No labor shall be performed by convicts, except those who are on parole, supervised release, or probation, in construction or maintenance or for any other purpose at the site or within the limits of any Federal-aid highway construction project from the time of award of the contract or the start of work on force account until final acceptance of the work by the SHA.

(b) Except as permitted in § 635.110(a), no procedures or requirement shall be imposed by any State which will operate to discriminate against the employment of labor from any other State, possession or territory of the United States, in the construction of a Federal-aid project.

(1) The selection of labor to be employed by the contractor on any Federal-aid project shall be of his/her own choosing.

(2) Employment shall be provided without regard to race, color, religion, sex, or national origin.

(c) As provided in section 140(d) of title 23, U.S.C., it is permissible for SHAs to implement procedures or requirements which will extend preferential employment to Indians living on or near a reservation on eligible projects. Indian preference shall be applied without regard to tribal affiliation or place of enrollment. In no instance should a contractor be compelled to layoff or terminate a permanent core-crew employee to meet a preference goal.

(d) Projects eligible for Indian employment preference consideration are those which are located on roads within or providing access to an Indian reservation or other Indian lands as defined under the term "Indian reservation roads" in 23 U.S.C. 101 and regulations issued thereunder. The terminus of a road "providing access to" is that point at which it intersects with a road functionally classified as a collector or higher classification (outside the reservation boundary) in both urban and rural areas. In the case of an Interstate highway, the terminus is the first interchange outside the reservation.

(e) The advertisement or call for bids on any contract for the construction of a project located on the Federal-aid system either shall include the minimum wage rates determined therefor by the Secretary of Labor or shall provide that such rates are set out in the advertised specifications, proposal or other contract document, and shall further specify that such rates are a part of the contract covering the project.

(f) When construction work on Federal-aid highways is being performed by any Federal agency under its procedures and by Federal contract, the labor standards relating to direct Federal contracts shall be applicable.

§ 635.118 Payroll and weekly statements.

For all projects, copies of payrolls and statements of wages paid, filed with the State as set forth in the required contract provisions for the project, are to be retained by the SHA for the period set forth in 23 CFR part 17 for review as needed by the Federal Highway Administration, the Department of Labor, the General Accounting Office, or other agencies.

§ 635.119 False statements.

The following notice shall be posted on each Federal-aid highway project in one or more places where it is readily available to and viewable by all personnel concerned with the project:

Notice to All Personnel Engaged on Federal-Aid Highway Projects

United States Code, Title 18, Section 1020, reads as follows:

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval of the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-aid Road Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented.

Shall be fined not more than $10,000 or imprisoned not more than five years, or both.

§ 635.120 Changes and extra work.

(a) Following authorization to proceed with a project all major changes in the plans and contract provisions and all major extra work shall be approved in writing by the Division Administrator in advance of their effective dates. However, when emergency or unusual conditions justify, the Division Administrator may give tentative advance approval orally to such changes or extra work and ratify such approval in writing to the SHA as soon thereafter as practicable.

(b) For minor changes and minor extra work, written approval is necessary but such approval may be given retroactively at the discretion of the Division Administrator. Such minor changes and minor extra work items would include, but not necessarily be limited to, modifications in construction items within the scope of the plans and contract provisions when such modifications are required during the progress of construction.

(c) Changes in contract time, as related to contract changes or extra work, will be submitted at the same time as the respective work change for approval by the Division Administrator.

(d) In establishing the method of payment for contract changes or extra work orders, force account procedures shall only be used when strictly necessary, such as when agreement cannot be reached with the contractor on the price of a new work item, or when the extent of work is unknown or is of such character that a price cannot be determined to a reasonable degree of accuracy. The reason or reasons for

using force account procedures shall be subject to the approval of the Division Administrator.

(e) The SHA shall perform and adequately document an independent cost analysis of each negotiated contract change or negotiated extra work order. The method and degree of the cost analysis shall be subject to the approval of the Division Administrator.

(f) Proposed changes and extra work involved in nonparticipating operations that may affect the design or participating construction features of a project, shall be subject to review and concurrence by the Division Administrator.

§ 635.121 Contract time and contract time extensions.

(a) The SHA should have adequate written procedures for determination of contract time on a uniform Statewide basis. These procedures should be approved by the Division Administrator.

(b) Contract time extensions granted by a SHA shall be subject to the concurrence of the Division Administrator and will be considered in determining the amount of Federal participation. Contract time extensions submitted for approval by the Division Administrator, shall be fully justified and adequately documented.

§ 635.122 Participation in progress payments.

(a) Federal funds will participate in the estimated costs to the SHA of construction accomplished as the work progresses, based on a request for reimbursement submitted by State highway agencies. When the contract provisions provide for stockpiling, the amount of the reimbursement request upon which participation is based may include the appropriate value of approved specification materials delivered by the contractor at the project site or other designated location in the vicinity of such construction, provided that:

(1) The material has not been delivered or stockpiled prematurely in advance of the contractor's schedule of operations.

(2) The material conforms with the requirements of the plans and specifications; and

(3) The material is supported by a paid invoice or a receipt for delivery of materials. If supported by a receipt of delivery of materials, the contractor must furnish the paid invoice within a reasonable time after receiving payment from the SHA;

(4) The quantity of a stockpiled material eligible for Federal participation in any case shall not exceed the total estimated quantity required to complete the project. This value may not exceed the appropriate portion of the value of the contract item or items in which such materials are to be incorporated.

(b) The materials may be stockpiled by the contractor at a location not in the vicinity of the project, if the SHA determines that because of required fabrication at an off-site location, it is not feasible or practicable to stockpile the materials in the vicinity of the project.

§ 635.123 Determination and documentation of pay quantities.

(a) The SHA shall have procedures in effect which will provide adequate assurance that the quantities of completed work are determined accurately and on a uniform basis throughout the State. All such determinations and all related source documents upon which payment is based shall be made a matter of record.

(b) Records of initial source documents pertaining to the determination of pay quantities are among those records and documents which must be retained pursuant to 23 CFR part 17.

§ 635.124 Participation in contract claim awards and settlements.

(a) The eligibility for and extent of Federal-aid participation up to the Federal statutory share in a contract claim award made by a State to a Federal-aid contractor on the basis of an arbitration proceeding, administrative board determination or court judgment, or a contract claim settlement entered into in lieu of such proceedings, shall be determined on a case-by-case basis. However, Federal funds will participate to the extent that any contract adjustments made are supported, and have a basis in terms of the contract and applicable State law, as fairly construed. Further, the basis for the adjustment and contractor compensation shall be in accord with prevailing principles of public contract law.

(b) The FHWA shall be made aware by the SHA of the details of the claim at an early stage so that coordination of efforts can be satisfactorily accomplished. Claims arising on projects handled under Certification Acceptance or Secondary Road Plan procedures should also be brought to the attention of the FHWA in those cases where the type of claim is unusual or controversial.

(c) When requesting Federal participation, the SHA shall set forth in writing the legal and contractual basis for the claim, together with the cost data and other facts supporting the award or settlement. Federal-aid participation in such instances shall be supported by a SHA audit of the actual costs incurred by the contractor unless waived by the FHWA as unwarranted. Where difficult, complex, or novel legal issues appear in the claim, such that evaluation of legal controversies is critical to consideration of the award or settlement, the SHA shall include in its submissions a legal opinion from its counsel setting forth the basis for determining the extent of the liability under local law, with a level of detail commensurate with the magnitude and complexity of the issues involved.

(d) In those cases where the SHA receives an adverse decision in an amount more than can be justified by the SHA, the FHWA will participate up to the appropriate Federal matching share, to the extent that it involves a Federal-aid participating portion of the contract, provided that:

(1) The FHWA was consulted and concurred in the proposed course of action;

(2) All avenues of appeal have been considered, and

(3) The SHA pursued the case diligently and in a professional manner.

(e) Federal funds will not participate:

(1) If it has been determined that SHA employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not accepted within the standards of the profession in project design, plan preparation, contract administration, or other activities which gave rise to the claim;

(2) In such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney's fees paid by a State to an opposing party in litigation; and

(3) In tort, inverse condemnation, or other claims erroneously styled as claims "under a contract."

(f) Payment of interest associated with a claim will be eligible for participation provided that the payment to the contractor for interest is allowable by State statute or specification and the costs are not a result of delays caused by dilatory action of the State or the contractor. The interest rates must not exceed the rate provided for by the State statute or specification.

(g) In cases where SHAs affirmatively recover compensatory damages through contract claims, cross-claims, or counter claims from contractors, subcontractors, or their agents on projects on which there was Federal-aid participation, the Federal share of such recovery shall be equivalent to the Federal share of the

project or projects involved. Such recovery shall be credited to the project or projects from which the claim or claims arose.

§ 635.125 Termination of contract.

(a) All contracts exceeding $10,000 shall contain suitable provisions for termination by the State, including the manner by which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(b) When a Federal-aid contract is terminated by the SHA, the extent of Federal-aid participation in the contract costs, including final settlement, will depend upon the merits of the individual case. In no event will Federal funds participate in any allowance for anticipated profit on work not performed.

(c) Normal Federal-aid plans, specifications, and estimates, advertising, and award procedures are to be followed when a SHA awards the contract for completion of a terminated Federal-aid contract.

(d) When a SHA awards the contract for completion of a Federal-aid contract previously terminated for default, the construction amount eligible for Federal participation on the project should not exceed either:

(1) The amount representing the payments made under the original contract plus payments made under the new contract; or

(2) The amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract, whichever amount is the lesser.

(e) If the surety awards a contract for completion of a defaulted Federal-aid contract or completes it by some other acceptable means, the FHWA will consider the terms of the original contract to be in effect and that the work will be completed in accordance with the approved plans and specifications included therein. No further FHWA approval or concurrence action will therefore be needed in connection with any defaulted Federal-aid contract awarded by a surety. Under this procedure, the construction amount eligible for Federal participation on the project should not exceed the amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

§ 635.126 Record of materials, supplies, and labor.

(a) The provisions in this section are required to facilitate FHWA's efforts to compile data on Federal-aid contracts for the establishment of highway construction usage factors.

(b) On all Federal-aid primary, urban, and Interstate System contracts, except those which provide solely for the installation of protective devices at railroad crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than $1,000,000 the SHA shall require the contractor:

(1) To become familiar with the list of specific materials and supplies contained in Form FHWA–47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract;

(2) To maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA–47, and in the units shown; and

(3) To furnish, upon the completion of the contract to the SHA resident engineer on Form FHWA–47 together with the data required in paragraph (b)(2) of this section relative to materials and supplies, a final labor summary for all contract work indicating the total hours worked and the total amount earned.

(c) Upon receipt from the contractor, the SHA shall promptly transmit the Form FHWA–47 to the Division Administrator in accordance with the instructions printed in the Form.

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BILLING CODE 4910–22–M

Coast Guard

33 CFR Part 117

[CGD8–90–07]

Drawbridge Operation Regulations; Bonfouca Bayou, Louisiana

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transporation and Development (LDOTD), the Coast Guard is considering a change to the regulation governing the operation of the swing span bridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana, by limiting the bridge openings to the hour and half-hour between 6 and 9 a.m. and between 3 and 6 p.m., Mondays through Fridays. This would be in addition to the present rule that requires twelve hours advance notice for an opening of the draw between the hours of 9 p.m. and 5 a.m. This action will help relieve increasing vehicular traffic congestion at the bridge and still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before July 19, 1990.

ADDRESSES: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are John Wachter, project officer, and LT J. A. Wilson, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed to navigation position is 3.5 feet above high tide and 6.7 feet above low tide at the pivot pier, and 8.2 feet above high tide and 11.4 feet above low tide at the rest pier. Navigation through the bridge consists of vessel traffic related to a shell yard, equipment yard, and a small marina just upstream of the bridge. Data submitted by LDOTD show

that from Monday through Friday between 6 a.m. and 9 a.m. an average of 374 vehicles cross the bridge, while during this same time frame an average of only one vessel passed through the bridge every four days. Between 3 p.m. and 6 p.m. Monday through Friday an average of 453 vehicles passed over the bridge while only one vessel opening occurred every 2.4 days. The Coast Guard feels that since vehicular traffic has increased dramatically and will continue to do so, those few vessels that pass the bridge during the proposed regulated period will be able to plan their arrival to coincide with the scheduled openings at little or no inconvenience or expense to them. This regulation will be of great benefit to the motorists in the community that use the bridge, with no significant impact on navigation that passes the bridge.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that during the proposed regulated period, as evidenced by the log of bridge openings from October 1, 1989 through March 31, 1990, less than 1 vessel passed the bridge every three days during either the morning or afternoon period. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).)

2. Section 117.433 is revised to read as follows:

§ 117.433 Bonfouca Bayou.

The draw of the S433 bridge, mile 7.0 at Slidell, shall open on signal; except that, from 9 p.m. to 5 a.m., the draw shall open on signal if at least 12 hours notice is given. From 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half-hour.

Dated: May 17, 1990.

W. F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 90–12809 Filed 6–1–90; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD8–90–08]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Algiers Alternate Route, Louisiana

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Plaquemines Parish Council and the Louisiana Department of Transportation and Development, the Coast Guard is considering an addition to the regulation governing the operation of the State Route 23 lift span bridge across the Gulf Intracoastal Waterway, Algiers Alternate Route, mile 3.8, at Belle Chasse, Plaquemines Parish, Louisiana. The proposed addition would permit the draw to remain closed to navigation from 6 a.m. to 8:30 a.m., Monday through Friday except holidays. Presently the draw opens on signal; except that, from 3:30 to 5:30 p.m. Monday through Friday, except holidays, the draw need not be opened for passage of vessels. This action is designed to relieve vehicular traffic congestion during the peak morning commuting period, while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before July 19, 1990.

ADDRESSES: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are John Wachter, project officer, and LT J. A. Wilson, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 40 feet above mean high water. Navigation through the bridge is largely barge tows with occasional petroleum drilling rigs, commercial fishing vessels and pleasure craft. A recent study by the highway department shows that due to development in the area, vehicular traffic crossing the bridge during the proposed peak morning closure has increased dramatically. During the proposed closure period of 6 a.m. to 8:30 a.m., about 163 vehicles cross the bridge every 15 minutes. The bridge opened for passage of vessels approximately 10 times per day during 1989.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the mariners that require an opening of the draw are repeat users of the waterway and scheduling their trips to avoid arriving at the bridge during the morning and afternoon closure periods should be relatively easy and should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact

on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.451(b) is revised to read as follows:

§ 117.451 Gulf Intracoastal Waterway.

* * * * *

(b) The draw of the S23 bridge, Algiers Alternate Route, mile 3.8 at Belle Chasse, shall open on signal; except that, from 6 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m. Monday through Friday except Federal holidays, the draw need not be opened for the passage of vessels.

* * * * *

Dated: May 21, 1990.

T. D. Fisher,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. 90–12810 Filed 6–1–90; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register
Vol. 55, No. 107
Monday, June 4, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of committee renewal.

SUMMARY: In compliance with the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Secretary of Agriculture has renewed the Flue-Cured Tobacco Advisory Committee for an additional period of 2 years.

The Committee recommends opening dates and selling schedules for the flue-cured marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members: 21 producers, 10 warehousemen, and 8 buyers, representing all segments of the flue-cured tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

FOR FURTHER INFORMATION CONTACT: Ernest L. Price, Director, Tobacco Division, AMS, USDA, 300–12th Street SW., room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–2567.

Done in Washington, DC, this 29th day of May, 1990.

Adis M. Vila,

Assistant Secretary for Administration.

[FR Doc. 90–12883 Filed 6–1–90; 8:45 am]

BILLING CODE 3410–02–M

Soil Conservation Service

Dover High School Critical Area Treatment RC&D Measure, Delaware

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dover High School Critical Area Treatment RC&D Measure, Kent County, Delaware.

FOR FURTHER INFORMATION CONTACT: Ms. Elesa Cottrell, State Conservationist, Soil Conservation Service, 9 East Loockerman Street, Suite 207, Dover, Delaware 19901–7377, telephone (302–678–4160).

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Elesa Cottrell, State Conservationist, has determined that the preparation and reveiw of an environmental impact statement is not needed for this project.

The measure concerns a plan to attach a 50 foot section of corrugated metal pipe to an existing storm drain outfall and to backfill the eroded area which is approximately fifteen (15) feet high by thrity (30) feet in length. All bare areas are to be treated with sufficient lime, fertilizer, grass seed and mulch to establish an acceptable vegetable cover. Currently this area is actively eroding and contributing sediment to Silver Lake. This site is located on the south end of the Dover High School Athletic field adjacent to Silver Lake.

The installation of this project will reduce the amount of sediment entering Silver Lake.

The Notice of Finding of No Significant Impact (FONSI) has been forward to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copies requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Ms. Elesa Cottrell.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

[This activity is listed in the Catalog of Federal Domestic Assistance Under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.]

Dated: May 25, 1990.

Lester E. Stillson,

Acting State Conservationist.

Finding of No Significant Impact, Dover High School RC&D Critical Area Treatment Measure, Kent County, Delaware

Introduction

The Dover High School RC&D Critical Area Treatment Measure is a federally assisted action authorized for planning under section 1528–1538 of the Agriculture and Food Act (Pub. L. 97–98). An environmental assessment was undertaken in conjunction with the development of the RC&D measure plan. This assessment was conducted in consultation with local, State and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location:

U.S. Department of Agriculture, Soil Conservation Service, 207 Treadway Towers, 9 East Loockerman Street, Dover, Delaware 19901.

Recommended Action

This project proposes to remove rubble and attach a 50 foot section of corrugated metal pipe to an existing storm drain outfall; to backfill the eroded area, approximately fifteen (15) feet high by thirty (30) foot deep, with soil fill material from off site; to apply sufficient grass seed, lime and fertilizer to establish a stable vegetative cover; to remove one tenth acre of existing woody vegetation to allow sunlight to enter the project area to promote the growth of the grass cover; and to build a berm between the school's athletic field and the project site to protect the treated area from soil erosion.

Effect of Recommended Action

The proposed action will (1) correct a serious erosion and sedimentation problem, (2) fix the storm drain, (3) eliminate a potential safety hazard, and (4) improve the water quality of Silver Lake.

The prime objective of this project is to improve the water quality of Silver Lake by eliminating the rapid rate of soil erosion that is currently occurring.

The installation of this project will not involve prime agricultural soils or soils of statewide importance. Also there are no

threatened or endangered species of plants or animals that would be affected by the installation of the proposed project. The State Historic Preservation Officer has indicated that the project area is located on a site of no archaeological resources and that no reconnaissance is necessary.

A 20 ft. by 18 ft. rock rip rap apron will be placed in the water of Silver Lake below the pipe. The rip rap will prevent the lake bottom from eroding. All necessary permits will be obtained by the Capital School District before construction.

No significant adverse environmental impacts will result from proper installation of the proposed project.

Alternatives

The planned action is the most practical means of reducing the said erosion from this site. Since no significant environmental impacts will result form the installation of the measure, no other alternative, other than the no project one, were considered.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Dover High School Critical Area Treatment Measure is not required.

Dated: May 25, 1990.

Lester E. Stillson,

Acting State Conservationist.

[FR Doc. 90-12773 Filed 6-1-90; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Office of the Secretary, Office of Civil Rights.

Title: Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs.

Type of Request: Renewal of a current collection.

Burden: 1,387 respondents; 694 reporting/disclosure hours; .50 average hours per response.

Needs and Uses: The information is requested of grant recipients to aid recipient in reviewing their programs, policies and practices to improve compliance with section 504 of the Rehabilitation Act of 1973, as amended.

Affected Public: State and local governments.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, 202/377-3271, Department of Commerce, room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written coments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: May 29, 1990.

Edward Michals,

Office of Management and Organization.

[FR Doc. 90-12839 Filed 6-1-90; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

Geographic Location and Kind of Business for Single-Establishment Employers

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of consideration.

SUMMARY: The Bureau of the Census is proposing to conduct a survey of single-establishment employers as part of the Business Classification Survey under the provisions of title 13, United States Code, sections 182, 224, and 225. The Census Bureau will collect information on the geographic location and kind of business for single-establishment employers. The information obtained will be used to maintain the Census Bureau file of company and establishment records and will be used for updating of the Standard Statistical Establishment List.

DATES: Comments must be submitted on or before July 5, 1990.

ADDRESSES: Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: W. Joel Richardson on (301) 763-7735.

SUPPLEMENTARY INFORMATION: The data will have significant application to the needs of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources. The survey, if conducted, shall begin not earlier than October 1, 1990.

Copies of the proposed form are available on request to the Director, Bureau of the Census, Washington, DC 20233.

Dated: May 25, 1990.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 90-12844 Filed 6-1-90; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Action Affecting Export Privileges; Monte Barry Semler

Order

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), having determined to initiate an administrative proceeding against Monte Barry Semler (Semler) pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401-2420 (Supp. 1989)) (the Act), and part 788 of the Export Administration Regulations (currently codified as 15 CFR parts 768-799 (1989)) (the Regulations), alleging that, from on or about November 8, 1983 to on or about November 12, 1984, Semler violated §§ 787.3(b) and 787.5(a)(1) of the Regulations by conspiring with Ronald H. Semler, Kurt Behrens, and others, to make or cause to be made false and misleading statements of material facts on Shipper's Export Declarations filed with the U.S. Customs Service (Customs) in connection with the export of helicopters from the United States and by making or causing to be made false and misleading statements of material fact on Shipper's Export Declarations filed with Customs in connection with six separate shipments of helicopters from the United States; and

The Department and Semler having entered into a Consent Agreement whereby the parties have agreed to settle this matter by Semler's being denied all United States export privileges for a period ending ten years from the date of this Order, with the denial period suspended on January 12, 1994 for the remainder of the period and thereafter waived subject to the conditions set forth below; and

The terms of the Consent Agreement having been approved by me:

It is therefore ordered,

First, that Monte Barry Semler, 1020 State Street, Suite B, Santa Barbara, California 93101, for a period ending ten years from the date of this Order, is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data subject to the Act and the

Regulations from the United States or abroad.

A. All outstanding individual validated export licenses in which Semler appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Semler's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

B. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but is not limited to, participation: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) In preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) In obtaining from the Department or using any validated or general export license or other export control document; (iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and (v) In financing, forwarding, transporting, or other servicing of such commodities or technical data.

C. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which Semler is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services (hereinafter related person).

D. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data subject to the Act and the Regulations, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Semler or any related person, or whereby Semler or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any U.S.-origin commodity or technical data exported in whole or in part, or to be exported by, to, or for Semler or any related person; or (b) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

E. As authorized by § 788.17(b) of the Regulations, beginning on January 12, 1994, the denial period set forth above shall be suspended for the remainder of the period. The suspended portion of the denial period will thereafter be waived, provided that, during the period of suspension, Semler has committed no violation of the Act or any regulation, order or license issued under the Act.

Second, that the proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public. A copy of this Order shall be served upon Semler and published in the **Federal Register.**

This constitutes the final agency action in this matter.

Entered this 25th day of May, 1990.

Quincy M. Krosby,

Assistant Secretary for Export Enforcement.

[FR Doc. 90-12778 Filed 6-1-90; 8:45 am]

BILLING CODE 3510-DT-M

Action Affecting Export Privileges; Ronald H. Semler

Order

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), having determined to initiate an administrative proceeding against Ronald H. Semler (Semler) pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401–2420 (Supp. 1989)) (the Act), and part 788 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1989)) (the Regulations), alleging that, from on or about November 8, 1983 to on or about November 12, 1984, Semler violated §§ 787.3(b) and 787.5(a)(1) of the Regulations by conspiring with Monte Barry Semler, Kurt Behrens, and othes, to make or cause to be made false and misleading statements of material facts on Shipper's Export Declarations filed with the U.S. Customs Service (Customs) in connection with the export of helicopters from the United States and by making or causing to be made false and misleading statements of material fact on Shipper's Export Declarations filed with Customs in connection with six separate shipments of helicopters from the United States; and

The Department and Semler having entered into a Consent Agreement whereby the parties have agreed to settle this matter by Semler's being denied all United States export privileges for a period ending ten years from the date of this Order, with the denial period suspended on January 12, 1994 for the remainder of the period and thereafter waived subject to the conditions set forth below; and

The terms of the Consent Agreement having been approved by me:

It is therefore ordered,

First, that Ronald H. Semler, 31727 Mulholland Highway, Malibu, California 90265, for a period ending ten years from the date of this Order, is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data subject to the Act and the Regulations from the United States or abroad.

A. All outstanding individual validated export licenses in which Semler appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Semler's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

B. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but is not limited to, participation: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) In preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) In obtaining from the Department or using any validated or general export license or other export control document; (iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and (v) In financing, forwarding, transporting, or

other servicing of such commodities or technical data.

C. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which Semler is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services (hereinafter related person).

D. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data subject to the Act and the Regulations, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Semler or any related person, or whereby Semler or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any U.S.-origin commodity or technical data exported in whole or in part, or to be exported by, to, or for Semler or any related person; (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

E. As authorized by section 788.17(b) of the Regulations, beginning on January 12, 1994, the denial period set forth above shall be suspended for the remainder of the period. The suspended portion of the denial period will thereafter be waived, provided that, during the period of suspension, Semler has committed no violation of the Act or any regulation, order or license issued under the Act.

Second, that the proposed Charging Letter, the Consent Agreement and this Order shall be made available to the public. A copy of this Order shall be served upon Semler and published in the **Federal Register**.

This constitutes the final agency action in this matter.

Entered this 25th day of May, 1990.

[FR Doc. 90-12779 Filed 6-1-90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 24, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee on Post Deployment Software Support will meet on June 19–20, 1990 from 8 a.m. to 5 p.m. at SM–ALC, McClelland AFB, CA

The purpose of this meeting will be to review Air Force post deployment software support (PDSS) capabilities and to make recommendations in these areas: Actions that AFLC might take to improve the PDSS process, technology that AFLC might evaluate for possible adoption, and strategy that AFLC might follow to develop and implement a mechanism for estimating cost and schedule. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (204) 297–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-12825 Filed 6-1-90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 24, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee on Post Depolyment Software Support will meet on June 25–26, 1990 from 8 a.m. to 5 p.m. at the Software Engineering Institute, Pittsburgh, PA.

The purpose of this meeting will be to review Air Force Post Deployment Software Support (PDSS) capabilities and to make recommendations in these areas: Actions that AFLC might take to improve the PDSS process, technology that AFLC might evaluate for possible adoption, and strategy that AFLC might follow to develop and implement a mechanism for estimating cost and schedule. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-12826 Filed 6-1-90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 29, 1990.

The USAF Scientific Advisory Board Arnold Engineering Development Center (AEDC) Advisory Group will meet on June 25–26, 1990 at Arnold Air Force Base, Tennessee.

The purpose of this meeting will be to acquaint the new AEDC Advisory Group members with the AEDC mission and selected ground test facilities, and to discuss AEDC's ballistic range activities. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-12827 Filed 6-1-90; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intention To Award a Grant to the North Carolina A&T State University

AGENCY: U.S. Department of Energy.

ACTION: Acceptance of an unsolicited application for a grant award.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center announces that pursuant to 10 CFR 600.14 (d) and (e), it intends to award a Grant based on an unsolicited application submitted by North Carolina A&T State University for "A Study of the Effect of Enhanced Oil Recovery Agents on the Quality of Strategic Petroleum Reserves Crude Oil."

SCOPE: The objective of this grant is to identify potential adverse effects of enhanced oil recovery (EOR) agents when comingled with other crude oils in the Strategic Petroleum Reserves (SPR).

This project will examine the conceivable impacts of EOR agents on SPR crude oils, including; (1) The formation of highly stable emulsions, (2)

flocculation of asphaltenes and (3) coagulation and precipitation of waxes.

In accordance with 10 CFR 600.14 (d) and (e), North Carolina A&T State University has been selected as the grant recipient. DOE support of the activity would enhance the public benefits to be derived by providing data on the effects of EOR agents on SPR crude oils. This activity represents an unique idea and a method which would not be eligible for financial assistance under a recent, current or planned solicitation. Furthermore, DOE has determined that a competitive solicitation would be inappropriate.

The term of the grant is for a seven (7) month period, with an estimated value to DOE of $12,800.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-165, Pittsburgh, PA 15236, Attn: Larry D. Gillham, Telephone: AC (412) 892-5024.

Dated: May 24, 1990.

Gregory J. Kawalkin,

Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 90-12859 Filed 6-1-90; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for International Affairs and Energy Emergencies; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2260), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/EU (SW)-81, for the transfer of 200.006 kilograms of uranium, containing 0.3 percent of the isotope uranium-235, 11.613 kilograms of uranium, enriched to 3.02 percent in the isotope uranium-235, and 91 grams of uranium, enriched to 91.21 percent in the isotope uranium-235, from Sweden to France, for conversion for use in Swedish reactors.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on May 30, 1990.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 90-12861 Filed 6-1-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER90-311-000, et al.]

Southern California Edison Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

May 24, 1990.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER90-311-000]

Take notice that on May 16, 1990, Southern California Edison Company (SCE) tendered for filing a Certificate of Concurrence in the cancellation of Washington Water Power Company's (WWP) FERC Rate Schedule No. 117, Edison's FERC Rate Schedule No. 134, filed by WWP in the above-referenced docket.

Comment date: June 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Electric and Gas Company

[Docket No. ER90-328-000]

Take notice that on May 22, 1999, Public Service Electric and Gas Company (PS) submitted for filing additional information regarding the basis for determining the carrying charge rate for the facilities it has provided for the connection of the Jersey Central Power & Light Company Readington Substation.

Comment date: June 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Company

[Docket No. ER90-353-000]

Take notice that on May 22, 1990, Idaho Power Company (IPC) tendered for filing a corrected Index of Purchasers under IPC's FERC Electric Tariff, Second Revised, Volume Number One. The corrected Index of Purchasers was submitted to reflect the addition of the Public Service Company of New Mexico to the list of those entities who have signed a Service Agreement pursuant to IPC's Short-Term Capacity and/or Energy for Resale tariff.

IPC requested waiver of the notice provisions of Section 35.3 of the Commission's regulations in order to permit the service agreements to become effective on the dates indicated on the corrected Index of Purchasers.

IPC states that copies of this Amendment to Filing were served on the Public Service Company of New Mexico.

Comment date: June 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania-New Jersey-Maryland Interconnection

[Docket No. ER90-381-000]

Take notice that on May 21, 1990 the Pennsylvania-New Jersey-Maryland Interconnection (PJM), a Mid-Atlantic Area Power pool, tendered for filing on behalf of its members revised Schedules 2.21, 2.212, 3.01, and 9.01 of the PJM Agreement, which Agreement is on file as PJM FERC Rate Schedule No. 1. The revisions accommodate internal accounting changes with respect to intra-pool installed capacity accounting between the members of PJM.

Comment date: June 11, 1990, in accordance with Standard Paragraph E end of this notice.

5. PSI Energy, Inc.

[Docket No. ER90-380-000]

Take notice that on PSI Energy, Inc., formerly named Public Service Company of Indiana, Inc., (PSI) on May 18, 1990, tendered for filing proposed changes in its FERC Electric Tariff, Original Volume No. 1 (11th and 12th Revisions); FERC Electric Tariff, Original Volume No. 2 (9th and 10th Revisions) and Electric Rate Schedules FERC Nos. 234 and 236. Such changes in rates are the result of a wholesale ratemaking revenue credit methodology negotiated between PSI and the following parties:

1. Cities and Towns (meaning the municipal utilities who are direct customers of PSI).
2. City of Logansport, Indiana.
3. Henry and Jackson County Rural Electric Membership Corporations.
4. Indiana Municipal Power Agency.

The reason for the wholesale ratemaking revenue credit methodology is to provide the wholesale customers with a revenue credit methodology similar to that of PSI's retail customers as approved by the Indiana Utility

Regulatory Commission in Cause Nos. 37414–S2 and 38809. Such ratemaking revenue credit methodologies are for the demand-related revenues for sales of Interim Scheduled Power under the Interim Scheduled Power Agreement, dated May 24, 1989, between PSI and Wabash Valley Power Association, Inc. (Wabash Valley), which has been accepted for filing in Docket No. ER89–526–000 and designated PSI's Rate Schedule FERC No. 241.

As part of the negotiations between the parties, PSI has requested the following:

1. Waiver of the notice requirements under § 35.3 of the Commission's Regulations under the Federal Power Act and an effective date of May 1, 1990, without suspension.

2. Waiver of the requirements under § 35.13 of the Commission's Regulations under the Federal Power Act not specifically addressed or complied with in the filing.

Copies of the filing were served upon the Indiana Utility Regulatory Commission, the City of Logansport, Indiana, Henry and Jackson County Rural Electric Membership Corporations, Wabach Valley, the Indiana Municipal Power Agency and the Indiana municipalities of Advance, Brooklyn, Coatesville, Dublin, Dunreith, Hagerstown, Knightstown, Ladoga, Lewisville, Montezuma, New Ross, Pittsboro, Rockville, South Whitley, Spiceland, Straughn, Thorntown, Veedersburg and Williamsport.

Comment date: June 11, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–12787 Filed 6–1–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM87–17–000]

Natural Gas Data Collection System; Revisions to Rate Filing Record Formats

May 25, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of revisions to rate filing record formats.

SUMMARY: This notice identifies revisions and clarifications to the record formats issued August 31, 1989, for natural gas rate filings submitted to the Commission on electronic media in accordance with Order No. 493 (53 FR 15025 (Apr. 27, 1988)) and § 154.63 of the Commission's regulations. The revisions are in response to recommendations from staff and natural gas companies.

DATES: The revised record formats are available May 25, 1990.

ADDRESSES: Requests for copies of the revised record formats, on paper and/or diskette, should be directed to: Reference and Information Center, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., room 3308, Washington, DC 20426, (202) 208–1371 (New Number).

FOR FURTHER INFORMATION CONTACT: Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, room 6100, Washington, DC 20426, (202) 208–0666 (New Number).

SUPPLEMENTARY INFORMATION: The Commission staff is issuing revisions to the record formats for natural gas rate filings submitted to the Commission on electronic media as required by Order No. 493 and § 154.63 of the Commission's regulations. The revisions are needed to correct errors in the formats, to provide more space for certain data and to clarify the reporting of certain items. The print software previously released by the Commission is not compatible with some of the record formats revised by this notice. New software reflecting these changes is expected to be available by August 1990. Therefore, the revisions to FILE1 are not required to be used until the Commission issues notice of availability of revised print software. However, the revised character and line limitations in revised General Instruction 3(C) for FILE3 may be used immediately, since the text information in FILE3 can be printed by other means.

This notice is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set yoiur communications software to use 300, 1200 or 2400 baud, full duplex, no parity, eight data bits and one stop bit. The notice will be available on CIPS for 30 days from the date of issuance.

In addition to publishing the text of this notice in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice and the revised record formats during normal business hours in the Commission's Reference and Information Center (room 3308) at 941 North Capitol Street, NE, Washington, DC 20426.

The complete record formats for rate filings, as revised by this notice, are available from the Reference and Information Center through its photocopy contractor, LaDorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE, Washington, DC. The record formats are also available on diskette from LaDorn Systems Corp. in both ASCII and WordPerfect 4.2 format. Copy fees apply to both paper and diskette copies. Refer to "Docket No. RM87–17–000: May 22, 1990 Revised Rate Filing Record Formats" when ordering. If requesting a copy on diskette, specify either 5.25" 1.2MB or 3.5" 1.44MB diskette.

Lois D. Cashell,

Secretary.

Appendix A—May 25, 1990 Revisions to Rate Filing Record Formats

General Instruction 3(C)

The maximum print density specifications for FILE 3 text are expanded to include 17 cpi, 20 cpi and 24 cpi for tabular displays in landscape orientation. Landscape displays may also be printed at 8 lines per vertical inch. These additions allow as many as 240 characters per line and 56 lines per page in landscape orientation.

General Instruction 4

The procedures for numeric fields where the applicant has no information to report are revised. Such fields may now be left blank instead of reporting ".001" for "not applicable." The procedure for omitting privileged data is similarly revised.

RA/02, Statement A

A new code = 16, for Total O & M Expense, is added to Item 14, Operating Expense Classification.

RA/03, Statement B

Note 1 at end of record format is revised to exclude Item 47, Description of Other Gas Plant Classification.

RA/05, Schedule C–1

Item 67, Subaccount Number, is now a character field.

RA/08, Schedule C–4

Item 96, Subaccount Number, is now a character field.

RA/16, Statement F(2)

The following is added to the note at the top of the record format: "If rates are based on an hypothetical capital structure, applicant may use the actual base period adjustments in conjunction with the hypothetical capital amounts for the test period."

The identification of Item 242, Cost of Debt or Equity Capital, is revised to "Cost of Debt, Equity, or Other Capital."

A new character Item 243a, Company Name, is added in character positions 85–114, with the instruction "enter the name of the jurisdictional/parent company if different from the company name reported in RA/01 Item 2."

The character positions for Item 244, Footnote ID, are revised to 115–118 and the Filler (Tape Only) is in 119–255.

RA/17, Statement F(3)

Item 254, Underwriters Discount or Commission, is expanded to 12 character positions. The character positions for Items 255 through the end of the record are increased by four positions.

The comment for Item 262, Debt Capital Less Current Maturities, is revised to "amount, ($) as of test period date."

The comment for Item 263, Annual Dollar Cost of This Issue, is revised to "amount, ($); effective interest rate times debt capital less current maturity for test period."

RA/19, Statement F(3)(g)

For Item 282, Type of Information, the term "test period summary data" in the definitions for codes 2 and 4 is revised to "base/test period summary data."

The comment for Item 288, Repurchase Gain/Loss for Reference Year [Total of All Gains/Losses as of End of Last Reference Year], is revised to "amount ($); [sum of all prior year dollar amounts of gains/losses for this item]."

RA/21, Statement F(4)

The name of Item 317, Annual Effective Cot of Money in Dollars, is revised to "Annual Individual Effective Cost of Money in Dollars."

RA/26, Schedule F(6), Part 1

The minus sign following the name of Items 406, 407, 410 through 413 and 415 is deleted.

The Comments column for Item 409, Net Cash Provided by (Used In) Operating Activities, is revised to "(sum items 398 thru 405)—item 406—item 407 + item 408."

RA/27, Schedule F(6), Part 2

The minus sign following the name of Items 419, 421, 424, 426 and 431 is deleted.

RA/28, Schedule F(6), Part 3

The minus sign following the name of Items 442 through 448 is deleted.

The Comments column for Item 452, Cash and Cash Equivalents at End of Year, is revised by adding: "sum of items 450 and 451."

RA/29, Statement G

The Comments column for Item 458, Year/Month/Total, is revised to "(yymm); enter 'totl' when reporting rate schedule total, zone total, jurisdictional total, billing determinant total, or grand total for period."

The following codes are added to Item 459, Total Indicator; code = 4, billing determinant total; code = 5, period total

RA/30, Statement G

The following Note is added at the beginning of the record format: "*Note*: Adjustments should only be reported in Items 491, 492 and 493 when reporting base period total information (ie., Item 479 = '1' and Item 480 = 'totl')."

RA/34, Statement G

A new character Item 545a, Unit Reported, is added in character position 149. The Comments column for this item reads: "enter code to identify volumetric units reported: code = 1, gallons; code = 2, tons."

The Footnote ID is moved to positions 150–153 with the Filler (Tape only) in positions 154–255.

RA/38, Statement G

Character positions for Items 584 through 593 and the Filler (Tape Only) are reduced by 10. Item 584 now occupies character position 84.

RA/43, Schedule H(1)–2, Part 2

The NGPA Category/Subcategory codes for Item 691 are now in Exhibit C.

RA/46, Schedule H(1)–2, Part 5

The NGPA Category/Subcategory codes for Item 735 are now in Exhibit C.

RA/48, Statement H(2)

The comment for Item 777, Account Number, is revised to "see note 8; leave blank when reporting grand total."

RA/49, Schedule H(2)–1

In NOTE 10, a new Code=7, Non Depreciable, is added. Former codes 7 and 8 are renumbered 8 and 9, respectively.

RA50, Statement H(3)

In Item 819, Schedule Code, code 02 is revised to "return on rate base." Former code=03 is deleted and former codes 04 through 23 are renumbered 03 through 22.

The identification of Item 833, Tax Rate, is revised to "Tax Rate/Rate of Return," The comment for this item is revised to "percent, format, f(10,7); when the value for item 819 is "02", specify the rate of return; when the value for item 819 is "13", specify the federal income tax rate; when the value for item 819 is "18" or "19", specify the state and local income tax rate."

RA/58, Schedule I–7, Part 1

A new character Item 975a, Period Reported, is added in character position 244. The Comments column for this item reads: "code=1 , base period; code=2, test period."

The Footnote ID (now Item 975b) is moved to positions 245–248 with the Filler (Tape only) in positions 249–255.

RA/59, Schedule I–7, Part 2

A new character Item 994a, Period Reported, is added in character position 219. The Comments column for this item reads: "code=1, base period; code=2, test period."

The Footnote ID (now Item 994b) is moved to positions 220–223 with the Filler (Tape only) in positions 224–255.

RA/60, Schedule I–7, Part 3

A new character Item 1013a, Period Reported, is added in character position 219. The Comments column for this item reads: "code=1, base period; code=2, test period."

The Footnote ID (now Item 1013b) is moved to positions 220–223 with the Filler (Tape only) in positions 224–255.

RA/64, Statement L (Major), Part 4

Item 1084, Unrecovered Incremental Gas Costs, and Item 1085, Unrecovered Incremental Surcharges, are removed from this record format. Character positions 168–191 should be blank filled.

RA/70, Statement L. (Non-Major), Part 2

Item 1080, Unrecovered Incremental Gas Costs, and Item 1181, Unrecovered

Incremental Surcharges, are removed from this record format. Character positions 108–131 should be blank filled.

The Comments column for Item 1182, Total Deferred Debits is revised to: "sum of items 1172 thru 1179."

RA/74, Statement M (Major), Part 1

The comment for Item 1251, Total Utility Operating Expenses, is revised to "(sum of items 1236 thru 1246)—item 1247 + item 1248 − item 1249 + item 1250."

RA/75, Statement M (Major), Part 2

The subtitle preceding Item 1258 is revised to "OTHER INCOME AND DEDUCTIONS, OTHER INCOME, NONUTILITY OPERATING INCOME."

The comment for Item 1268, Total Other Income, is revised to "item 1258 − item 1259 + 1260 − item 1261 + (sum of items 1262 thru 1267)."

RA/76, Statement M (Major), Part 3

The Comments column for Item 1286, Net Other Income and Deductions, is revised to: "item 1268 − item 1272 − item 1285."

RB/02, Schedule N–1

Same revisions as RA/05, Schedule C–1.

RB/05, Schedule N–4

Same revisions as RA/16, Statement F(2).

RB/07, Schedule N–6

Same revisions as RA/48, Statement H(2).

RB/08, Schedule N–7

Same revisions as RA/50, Statement H(3).

RB/11, Schedule N–9

Same revisions as RA/02, Statement A.

RB/13, Schedule N–10

Same revisions as RA/29, Statement G.

RB/14, Schedule N–10

Same revisions as RA/30, Statement G.

RB/18, Footnotes

The Filler (Tape Only) for the header record occupies positions 15–255.

The Filler (Tape Only) for the text record occupies positions 166–255.

RB/19, Standardized Format Header Record

The Filler (Tape Only) occupies positions 15–255.

RB/20, Non-Standard Format Header Record

A new item, Lines Per Inch, is added in character position 18. Enter "6" or "8" in accordance with General Instruction 3(C).

The Filler (Tape Only) occupies positions 19–255.

Text lines now have a maximum length of 240 characters. Refer to General Instruction 3(C) for specific limits. Blank fill through position 255 when reporting on magnetic tape.

RB/21, Non-Standard Format Trailer Record

The Filler (Tape Only) occupies positions 5–255.

Exhibit B, Diskette Filing Procedures

Instruction 5 for numeric items is revised to read: "See General Instruction Number 4 of these Rate Filing reporting formats for detailed instructions for recording numeric data on diskette(s)."

Exhibit C

The former Exhibit C, containing codes identifying types of totals for gas operating revenues and sales volumes, is deleted. Exhibit J, identifying the major NGPA categories used in Records RA/43 and RA/46, is redesignated Exhibit C.

[FR Doc. 90–12788 Filed 6–1–90; 8:45 am]
BILLING CODE 6717–01–M

[Docket Nos. CP90–1377–000, et al.]

Trunkline Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP90–1377–000]

May 24, 1990.

Take notice that on May 16, 1990, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP90–1377–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service provided to Bridgeline Gas Distribution Company (Bridgeline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline proposes to abandon a transportation service provided to Bridgeline pursuant to Trunkline's Rate Schedule T–99 under a transportation agreement dated August 28, 1984, (agreement) authorized by the Commission's order issued February 4, 1986 in Docket No. CP85–208–000. Trunkline states that it received the gas for Bridgeline's account at existing points of interconnection between Stringray Pipeline Company and Sabine Pipe Line Company in West Cameron Block 536 and West Cameron Block 565 and delivered the gas for Bridgeline's account at existing points of interconnection to Riverway Gas Pipeline Company in St. Mary Parish, Louisiana; Columbia Gulf Transmission Company in St. Mary Parish, Louisiana; and the Superior Oil Company Lowry gas processing plant in Cameron Parish, Louisiana, where ANR Pipeline Company accepted the gas for Bridgeline's account. Trunkline indicates that by its letter dated April 19, 1990, Bridgeline stated that the agreement had expired under its own terms on September 28, 1988, and requests that Trunkline file for abandonment authorization. Trunkline further requests that the abandonment authorization be effective September 28, 1988, to coincide with the termination date of the agreement.

Comment date. June 14, 1990, in accordance with Standard Paragraph F at the end of this notice.

2. Associated Natural Gas Company, a Division of Arkansas Western Gas Company

[Docket No. CP90–1350–000]

May 24, 1990.

Take notice that on May 11, 1990, Associated Natural Gas Company (Associated), a division of Arkansas Western Gas Company 1083 Sain Street, P.O. Box 1408, Fayetteville, Arkansas 72702–1408, filed in Docket No. CP90–1350–000 an application pursuant to sections 7(b) and 7(f)(2) of the Natural Gas Act for permission and approval to abandon facilities and services that were subject to the Commission's jurisdiction prior to October 6, 1988, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Associated received in Docket No. CP88–101–000 a service area determination pursuant to Natural Gas Act (NGA) section 7(f). It is further stated that on October 6, 1988, Congress enacted the Uniform Regulatory Jurisdiction Act of 1988, which amended the NGA by adding section 7(f)(2), 15 U.S.C. 717(f)(2). Section 7(f)(2) of the NGA, it is said, removes from the Commission's jurisdiction the transportation of gas to the ultimate consumer, even though it crosses state lines, if performed by a section 7(f) company within the service area. Associated therefore requests the

vacatur of certificate authorization for or, alternatively, permission to abandon (1) the ANG Interstate Pipeline, part of Associated's system that crosses the Arkansas-Missouri border, which was originally certificated in Docket No. G–1900 and (2) a liquefied natural gas facility near Blytheville, Arkansas, which was originally certificated in Docket No. CP72–133.

Associated states that Commission action in this proceeding would neither affect the continued operation of facilities nor the quality of services currently performed by Associated. Associated further states that it would continue to use the facilities and perform the services previously subject to FERC jurisdiction.

Comment date. June 14, 1990, in accordance with Standard Paragraph F at the end of this notice.

3. National Fuel Gas Supply Corporation

Docket No. CP90–1399–000]

May 24, 1990

Take notice that on May 18, 1990, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP90–1399–000 a request pursuant to §§ 157.205, 157.211 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.212) to construct and operate sales tap facilities to attach new residential and commercial customers of National Fuel Gas Distribution Corporation (Distribution) and to add two new delivery points with respect to Distribution, under authorization issued in Docket No. CP83–4–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspeciton.

National proposes to construct sales tap facilities in Washington Township, North East Township, and Greenfield Township, Erie County; Rose Township, Polk Township, and Heath Township, Jefferson County; Coolspring Township and Worth Township, Mercer County; and Barnett Township, Forest County, Pennsylvania, in order to serve additional residential and commercial customers of Distribution.

National also proposes the addition of delivery points with respect to Distribution in the Borough of Corry, Erie County, Pennsylvania and the Town of Angelica, Allegany County, New York.

Comment date: July 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. Altamont Gas Transmission Company (successor to Altamont Gas Transportation Project)

Docket No. CP89–1851–002]

May 24, 1990.

Take notice that on May 15, 1990, Altamont Gas Transmission Company (Altamont), P.O. Box 2511, Houston, Texas 77001, filed an amendment to its Application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, 15 U.S.C. 717(d), and the procedures of subpart A of part 157 of the Commission's Regulations, 18 CFR 57.7 *et seq.* Altamont seeks authorization to (1) construct and operate an interstate natural gas pipeline system (the "Altamont System") extending from a point at the United States-Canadian international border near Port of Wild Horse, Montana, through the states of Montana and Wyoming, to a terminus near Opal, Wyoming at a proposed interconnection with the proposed facilities of Kern River Gas Transportation Company ("Kern River") and (2) transport natural gas through the new pipeline system for local distribution companies, gas producers, marketers and users, and other shippers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Since July 1989, singificant progress has been made in the development of the Altamont System. First, in late August 1989, Kern River entered into a setlement agreement with certain other potential suppliers of gas to Southern California which significantly enhanced the likelihood that the Kern River System would be constructed in a timely fashion. Indeed, the Commission issued Kern River a certificate under its optional procedures in January 1990, authorizing the construction and operation of the Kern River System. *Kern River Gas Transmission Company*, 50 FERC ¶ 61,069 (1990). Since the success of the Altamont System is directly linked to the success of the Kern River System, this development was of obvious benefit to Altamont.

Second, in December 1989, Altamont filed its Final Environmental Report, which clearly demonstrated that the construction of the Altamont System could be accomplished in an environmentally acceptable and superior manner. The Commission is presently reviewing that submission and the Final Environmental Impact Statement for the Altamont System is expected by the end of 1990.

Third, in early 1990, Tenneco Gas and Montana Power Company agreed to participate in the Joint Venture that would own the Altamont System through their respective subsidiaries Tenneco-Altamont Corporation (Tenneco) and Entech Altamont, Inc. More specifically, Tenneco agreed to become the lead participant with a 40 percent ownership interest. The remainder of the ownership interest in the Joint Venture is divided equally between Amoco and Petro-Canada.

Fourth, in February 1990, the California Public Utility Commission (the "CPUC") issued a decision in which it found that "there is a near term need for at least an additional 900 MMcf/d of natural gas to California and for significantly more within the first decade of the 21st century; perhaps as much as 2.1 Bcf/d, cumulatively".

Fifth, Altamont has updated its estimate of the costs of constructing the Altamont System. The revised cost estimate is $573,483,000.

Sixth, the design of the Altamont System has been modified to permit the delivery of a total of 718,760 Mcf of gas per day to the Kern River System. The additional volumes (*i.e.*, 18,760 Mcf per day) will be used as fuel by Kern River.

Seventh, Altamont has revised its rate design. In addition, modifications have been made in the exhibits to Altamont's Application regarding financing, revenues, and depreciation.

Eighth, a new tariff has been developed which reflects feedback, from a number of sources, including various potential suppliers. Significantly, this tariff reflects several of the revisions required by the Commission in its recent decision in the *Kern River* proceeding.

Ninth, substantial interest in the Altamont System has been expressed by a number of potential shippers. Indeed, 14 shippers have entered into agreements for or have expressed interest in firm transportation capacity totalling more than 1 Bcf per day. Active negotiations are proceeding with these and other customers.

Tenth, on May 14, 1989, a Joint Venture Agreement was executed among Amoco Altamont Company (Amoco), Entech, Petro-Canada Altamont Inc. (Petro-Canada), and Tenneco.

Finally, on May 14, 1990, a Construction, Operation & Maintenance ("CO&M") Agreement was executed by the participants in this Joint Venture, which specifies among other things that Altamont Service Corporation, an affiliate of Tenneco, will be the operator of the Altamont System.

Altamont also states that its filing contains data responsive to an order issued by the Commission in this

proceeding on May 1, 1990. This data further supplements Altamont's Application and is said by Altamont to constitute its best effort to amend its Application and fully comply with the Commission's order. Altamont further states that it is committed to continuing the development of the Altamont System and believes that its system is superior to any other alternative for the transportation of increased Canadian gas supply to California consumers.

Comment data: June 14, 1990, in accordance with Standard Paragraph F at the end of the notice.

5. Altamont Gas Transmission Company

[Docket Nos. CP90-1375-000 and CP90-1372-000]

May 24, 1990.

Take notice that on May 15, 1990, Altamont Gas Transmission Company (Applicant), P.O. Box 2511, Houston, Texas 77252-2511, pursuant to sections 7(b) and 7(c) of the Natural Gas Act and subpart E of Part 157 of the Regulations of the Federal Energy Regulatory Commission (Commission), filed in Docket No. CP90-1375-000 an application for an optional certificate of public convenience and necessity authorizing it to (1) construct, own and operate an interstate natural gas pipeline system commencing at a proposed point of interconnection at the U.S.-Canada border near Port of Wild Horse, Montana and extending through the states of Montana and Wyoming to a terminus near Opal, Wyoming at a point of interconnection with the facilities of Kern River Gas Transmission Company and (2) abandon all or any part of the authorized facilities or services Applicant determines are no longer needed upon expiration of the underlying contracts. In addition, under subpart F or part 157, Applicant requests a blanket authority to construct, own and operate appurtenant facilities as necessary to render the authorized serivce.

Applicant also filed an application, in Docket No. CP90-1372-000 pursuant to 18 CFR 284.221 for a blanket certificate of public convenience and necessity authorizing self implementing transportation for others on a non-discriminatory basis. Applicant states that it will comply with the conditions set forth in § 284.221(c) of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant is a joint venture pursuant to the Uniform Partnership Act of the State of Delaware. The venture is comprised of Amoco Altamont Company; Entech Altamont, Inc.; Petro-Canada Altamont Inc. and Tenneco-Altamont Corporation.

Applicant states that the purpose of the pipeline project is to provide an efficient natural gas transmission system for the transportation of gas for contract shippers. The Altamont system will provide markets in California new and diverse energy supplies. The proposed pipeline will consist of (1) 620 miles of 30" diameter pipe; (2) an initiating compressor station near Wild Horse, Montana consisting of four 12,600 HP turbine/centrifugal compressor units and aerial coolers; and (3) five additional compressor stations, each consisting of a single 12,600 HP unit. One meter station would be required for the proposed interconnection with the Kern River Gas Transmission Company.

Applicant states that the system has a design capacity of 719,000 Mcf per day. The estimated cost of the completed project is $573,483,000. Applicant proposes to finance its project through a combination of partner's equity contributions and debt. The planned in-service date is November 1, 1993.

Altamont proposes to provide firm and interruptible transportation service on an open-access, non-discriminatory basis pursuant to the terms of a blanket certificate issued pursuant to subpart G of part 284 of the Commission's Regulations. Altamont will provide firm transportation service pursuant to Rate Schedule ALTF-1 and interruptible service pursuant to Rate Schedule ALTI-1.

Altamont proposes to provide transportation service only. Although Altamont may purchase sufficient quantities of natural gas for linepack, Altamont will not buy or sell any of the natural gas transported on its system. Fuel requirements and gas lost and unaccounted-for will be provided in-kind by the shippers each month.

Priority of Service

Altamont's *Pro Forma* Tariff allocates capacity on a first-come, first-serve basis. Following the effective date of Altamont's Tariff, and subject to any pre-existing contractual commitments, firm capacity on the system which remains available will be allocated on a first-come, first-serve basis. Priority will be established on the date of receipt of a request which conforms to the requirements set forth in the Tariff. To maintain its priority, a prospective shipper will have 30 days to execute a transportation service agreement in the form contained in Altamont's Tariff.

A ten-day open season will be held for the receipt of requests for interruptible service. All requests for interruptible service received during the open season will have the same priority date.

Rates

For firm transportation, Altamont proposes a two-part rate. Consistent with 18 CFR 157.103(a)(3), Altamont's maximum reservation charge for firm service allows recovery of only the fixed costs of service, exclusive of Altamont's return on equity and associated taxes. Altamont's firm transportation rate has been designed based on Altamont's anticipated capitalization rate of 75% debt and 25% equity.

Rate Derivation

The rates and their derivation, based on estimated costs in 1990 dollars, are set forth in Exhibit P. Altamont has developed its rates using a modified fixed-variable design with an assumed load factor of 90%. Altamont's rates are as follows:

	Volumetric rate		Maximum monthly reservation rate
	Maximum	Minimum	
ALTF-1	$0.428	$0.01	$10.14
ALTI-1	$1.428	$0.01	

Rates for all services are based on projected units of service; all of the pipeline's costs will be recovered by providing the levels of service projected at maximum rates. The rates for both firm and interruptible transportation services are applicable to service at any receipt point and delivered to any delivery point as set out in the Transportation Service Agreement.

Depreciation and Returns

Altamont proposes to depreciate the facilities over a 25-year period. Altamont proposes a levelized cost of service for the first 15 years of the project's life and straight-line depreciation for the remaining years. Return on equity is set at 14.25%, and the cost of debt capital is set at 10.25%. Based on the 75% debt-25% equity capital structure, the overall rate of return is 11.25%.

Interruptible Rate

Altamont proposes a one-part volumetric rate for interruptible service which may be discounted between stated maximum and minimum levels.

The maximum interruptible rate is equivalent to the maximum rate for firm service, calculated at a 100% load factor.

Capacity Assignment

In order to promote an efficient use of the Altamont System, Altamont's proposed transportation Tariff allows firm shippers to temporarily assign some or all of their rights to firm capacity. The capacity reassignment provision conforms to the requirements contained in *Kern River Gas Transmission Company*, 50 FERC ¶ 61,069 at p. 61, 154 (1990).

Comment date: June 14, 1990, in accordance with Standard Paragraph F at the end of this notice.

6. K N Energy, Inc.

[Docket No. CP90–1392–00]

May 24, 1990.

Take notice that on May 18, 1990, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP90–1392–000 request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act authorization to construct and operate sales taps for the delivery of natural gas to various end-users under its blanket certificate issued in Docket No. CP83–140–000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N requests authorization to construct and operate sales taps to various end-users, listed, is the attached appendix, located along its jurisdictional pipelines. K N states that the proposed sales taps are not prohibited by any of its existing tariffs and that the additional taps would have no significant impact on its peak day and annual deliveries. The gas delivered and sold by K N to the various end-users would be priced in accordance with the currently filed rate schedules authorized by the applicable state and local regulatory bodies having jurisdiction over the sales, it is indicated.

Comment date: July 9, 1990, in accordance with Standard paragraph G at the end of this notice.

Customer	Location of tap	Approx. quantity to be sold (Mcf)		End use of gas	Est. cost of facilities
		Peak day	Annual		
Resident/Occupant 90–24, Harold Warp	Kearney Co., Nebraska	24	800	Irrigation	850
Resident/Occupant 90–25, U.S. Meat Animal Research	Clay Co., Nebraska	24	800	Irrigation	850
Resident/Occupant 90–26, Duane Dinslage	Antelope Co., Nebraska	24	800	Irrigation	850
Resident/Occupant 90–27, Richard Bateman	Gray Co., Kansas	2	120	Domestic	850
Resident/Occupant 90–28, Minden Terminal, Inc.	Kearney Co., Nebraska	4	280	Commercial	850
Resident/Occupant 90–29, Kenneth Ensz	Kearny Co., Kansas	2	120	Domestic	850
Resident/Occupant 90–30, Leo Babutzke	Holt Co., Nebraska	24	800	Irrigation	850
Resident/Occupant 90–31, Waste Tech, Inc.	Kimball Co., Nebraska	2,000	230,000	Commercial	2,000
Resident/Occupant 90–32, Heartland Swine	Fillmore Co., Nebraska	2	120	Commercial	850
Resident/Occupant 90–33, Hill Farm, Inc.	Sheridan Co., Kansas	2	120	Domestic	850

7. Altamont Gas Transmission

[Docket Nos. CP90–1373–000 and CP90–1374–000]

May 24, 1990.

Take notice that on May 15, 1990, Altamont Gas Transmission Company (Applicant), P.O. Box 2511, Houston, Texas 77001, filed an application pursuant to section 3 of the Natural Gas Act (15 U.S.C. 717b); §§ 153.1 *et seq* through 153.12 *et seq* of Commission's Regulations, 18 CFR 153.1 and 153.12; Executive Order Nos. 10485, as amended by Executive Order No. 12038; and Delegation Order No. 0204–112 of the Secretary of Energy an application for a Presidential Permit authorizing the construction, operation, maintenance, and connection of pipeline facilities on the International Boundary between the United States and Canada. Such facilities will be used for the importation of natural gas into the United States. These facilities will be located near Wild Horse, Alberta and Port of Wild Horse, Montana, all as more fully set forth in the applications, which are on file with the Commission and open to public inspection.

Applicant proposes to construct a 30-inch pipeline which will interconnect with the facilities of NOVA Corporation of Alberta (NOVA) in Canada near Wild Horse, Alberta and will extend into the United States at a point near Port of Wild Horse, Montana.

Applicant states that it has filed an applicant, as amended, in Docket Nos. CP89–1851–000 and CP89–1851–002 for authorization to construct and operate approximately 620 miles of large diameter pipeline and appurtenant facilities which would interconnect with the facilities of NOVA in Alberta and then follow a southerly route through Montana and Wyoming to a point of interconnection with the facilities of Kern River Gas Transmission Company in the vicinity of Opal, Wyoming. It is stated that Applicant has also sought authorization from the Commission to transport Canadian natural gas supplies for certain shippers through its proposed facilities.

Comment date: June 14, 1990, in accordance with Standard Paragraph F at the end of this notice.

8. K N Energy, Inc.

[Docket No. CP90–1401–000]

May 25, 1990.

Take notice that on May 21, 1990, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP90–1401–000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Hastings Utilities, City of Hastings, Nebraska (Hastings), under the authorization issued in Docket No. CP89–1043–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N would perform the proposed interruptible transportation service for Hastings, pursuant to an interruptible transportation agreement (applicable to Rate Schedule IT–1, IT–2, and IT–3) dated March 20, 1990. The term of the transportation agreement is from March 20, 1990, and shall continue in effect for a period of one year and month to month thereafter unless terminated by either party by written notice one month or more prior to the end of the initial term and any subsequent term thereafter. K N proposes to transport on a peak day up to 18,431 Mcf; on an average day up to 18,431 Mcf; and on an annual basis up to 6,727,315 Mcf of natural gas for Hastings. K N states that it would receive the gas at existing

receipt points along its pipeline system for transportation to an existing point of interconnection at the Hastings town border station in Adams County, Nebraska. It is alleged the rate to be charged Hastings for the proposed transportation shall not be more than the maximum rate under Rate Schedule IT–1, IT–2, IT–3, nor less than the minimum rate under Rate Schedule IT–1, IT–2, and IT–3. K N avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementation provision of § 284.223(a)(1) of the Commission's regulations. K N commenced such self-implementing service on April 1, 1990, as reported in Docket No. ST90–2798–000.

Comment date: July 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

9. Northwest Pipeline Corporation

[Docket No. CP90–1407–000]

May 25, 1990.

Take notice that on May 23, 1990, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90–1407–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act for Conoco, Inc. (Conoco), all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to transport natural gas for Conoco pursuant to a transportation agreement dated April 14, 1986. Northwest explains that service commenced March 1, 1990, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90–3112–000. Northwest further explains that the peak day quantity would be 75,000 MMBtu, the average daily quantity would be 500 MMBtu, and that the annual quantity would be 182,500 MMBtu. Northwest explains that it would receive natural gas for Conoco's account from any receipt point on Northwest's system and redeliver the gas to any transportation delivery point on its system.

Comment date: July 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

10. Natural Gas Pipeline Company of America

[Docket No. CP90–1405–000 and CP90–1406–000]

May 25, 1990.

Take notice that on May 23, 1990, Natural Gas Company of America (NGPL), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket Nos. CP90–1405–000 and CP90–1406–000 requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis pursuant to NGPL's Rate Schedule ITS on behalf of two shippers under NGPL's blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by NGPL and is summarized in the attached appendix. It is explained that the gas would be received by NGPL at designated points on their respective systems and would be delivered for the shippers' accounts at designated points of interconnection.

Comment date: July 9, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

APPENDIX

Docket number	Shipper	Volumes—MMBtu, Peak day, Average (annual)	Related docket [1]	Commencement date
CP90–1405–000	Elf Aquitane Operating Inc	50,000 20,000 7,300,000	ST90–2523...	Mar. 24, 1990.
CP90–1406–000	Centran Corp	50,000 25,000 9,125,000	ST90–2630...	Mar. 26, 1990.

[1] NGPL reported the 120-day transportation service in the referenced ST dockets.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-12797 Filed 6-1-90; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10127-001-Maine]

Clifford Akers; Surrender of Exemption

May 24, 1990.

Take notice that Clifford Akers, exemptee for the proposed Pineland Project No. 10127, has requested that this exemption be terminated. The exemption was issued on April 11, 1988. The project would have been located on Branch Brook in Oxford County, Maine. No on-site construction activities have occurred. The exemptee states that it is not economically feasible to develop the project.

The exemptee filed his request on April 23, 1990, and the exemption for Project No. 10127 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 90-12793 Filed 6-1-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-11-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

May 24, 1990.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on May 22, 1990, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective May 1, 1990

Substitute Twenty-fourth Revised Sheet No. 211

Substitute Twentieth Revised Sheet No. 214

Algonquin states that the above-named sheets are being filed pursuant to Section 10.3 and 9.3 of Rate Schedules STB & SS-III to concurrently track the rate changes contained in Texas Eastern Corporation's April 27, 1990 filing in Docket No. TA90-8-17-000 for the underlying services.

Algonquin states that the effect of the change in rates is to reduce the injection rate by $0.0003 per MMBtu to $0.0548 per MMBtu for both Rate Schedules STB & SS-III.

Algonquin notes that copies of this filing were served upon each of the affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 1, 1990. Protests will be conidered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-12789 Filed 6-1-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-248-005]

Mississippi River Transmission Corp.; Proposed Change in FERC Gas Tariff

May 24, 1990.

Take notice that on May 23, 1990 Mississippi River Transmission Corporation (MRT) tendered for filing an original and six (6) copies of the tariff sheets reflected on the attached Appendix A, to its FERC Gas Tariff, Second Revised Volume No. 1.

MRT states that the purpose of the instant filing is to remove the costs of the ANR Storage Company storage service and the related transportation services from MRT's base tariff rates in Docket No. RP89-248, effective April 1, 1990 in compliance with the Commission's Letter Order dated April 30, 1990. The reduction impacts only the base tariff rates for jurisdictional sales service under Rate Schedules CD-1, SGS-1, and PI-1.

MRT states that subsequent to its Motion Filing, it has filed (1) in Docket No. TF90-1-25 a PGA Interim Adjustment to be effective April 1, 1990 which effectively superseded MRT's motion filing sales rates, (2) in Docket No. TF90-2-25 a PGA Interim Adjustment to be effective May 1, 1990, and (3) in Docket No. TA90-1-25 a PGA Annual Adjustment to be effective June 1, 1990. Since the rates contained in each of these filings were predicated on the higher base tariff rates contained in MRT's March 30, 1990 Motion Filing, MRT is also submitting for filing revised tariff sheets to be effective on April 1, 1990, May 1, 1990 and June 1, 1990, which reflect the lower base tariff rates proposed herein.

MRT states that a copy of this filing has been mailed to each of MRT's jurisdictional sales customers and to the State Commissions of Arkansas, Illinois and Missouri and to all parties on the Commission's official service list in Docket No. RP89-248-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 384.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 1, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-12790 Filed 6-1-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-8-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

May 25, 1990.

Take notice that on May 24, 1990, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective July 1, 1990.

Second Revised Sheet Nos. 71.1
Second Revised Sheet Nos. 71-B.1 through 71-B.2
Second Revised Sheet Nos. 72.1 through 72.3
First Revised Sheet No. 72.4
Second Revised Sheet Nos. 72-B.1 through 72-B.4
First Revised Sheet Nos. 72-B.5 through 72-B.7

National states that the purpose of this filing is to update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of section 20 of the General Terms and Conditions to National's FERC Gas Tariff, First Revised Volume No. 1. National further states that its pipeline-suppliers which have received approval to bill take-or-pay charges to National are: Columbia Gas Transmission Corporation, CNG Transmission Corporation, Texas Eastern Transmission Corporation, Transcontinental Gas Pipeline Corporation, and Tennessee Gas Pipeline Company.

National states that copies of National's filing were served on its jurisdictional customers and on the interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 4, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-12791 Filed 6-1-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1227-000 and RP88-259-000]

Northern Natural Gas Co., Informal Settlement Conference

May 25, 1990

Take notice that an informal settlement conference has been scheduled in the above proceeding to begin on June 13, 1990, at 1 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NW., Washington, DC 20426.

Any party, as defined by 18 CFR 385.102(c) (1989), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations. 18 CFR 385.27 (1989).

For additional information, contact Donald Williams at (202) 208-0743 or Andrew S. Katz at (202) 208-2158.

Lois D. Cashell,

Secretary.

[FR Doc. 90-12794 Filed 6-1-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-67-034]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 29, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on May 25, 1990 tendered for filing as part of its FERC Gas Tariffs, Fifth Revised Volume No. 1 and Original Volume No. 2, an original and fourteen copies of the tariff sheets listed in Appendices A and B of the filing.

Texas Eastern states that by its "Order On Contested Offer of Settlement" issued February 23, 1990 and "Order Granting Rehearing" issued April 25, 1990, the Federal Energy Regulatory Commission approved Texas Eastern's May 31, 1989 Stipulation and Agreement (Agreement) in Docket Nos. RP88-67, *et al.*, as supplemented on June 13, 1989 and August 29, 1989, which Agreement resolves all issues in those dockets with the exception of those items reserved for hearing as set forth in Article III of the Agreement.

Texas Eastern states that Article II of the Agreement provides that it will file revised tariff sheets as set forth in the appendices to the Agreement within thirty (30) days after the date the Commission's order approving the Agreement becomes final and no longer subject to rehearing. As a result of the February 23, 1990 order becoming a final order on April 25, 1990, Texas Eastern submits for filing the tariff sheets listed in Appendices A and B of the filing.

The proposed effective dates of the tariff sheets are as stated in Appendix A of the filing. The tariff sheets listed in Appendix B of the filing are proposed to be effective on the "Acceptance Date" as defined in Texas Eastern's Agreement. Assuming the Commission issues an order on this filing prior to June 30, 1990 and no requests for rehearing are filed, the "Acceptance Date" would be August 1, 1990.

Texas Eastern states that copies of the filing were served on all parties on the official service list in Docket Nos. RP88-67, *et al.*, Texas Eastern's Shippers under Rate Schedules FT-1 and IT-1 jurisdictional customers, and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before June 5, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-12792 Filed 6-1-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $3,984,443.57 (plus accrued interest) which was remitted by Tri-Service Drilling Co., Case No. KEF-0135; Tottle Petroleum, Inc., Case No.

KEF-0140; Carbonit Houston, Inc., Case No. KEF-0141; Meridian Oil, Case No. KEF-0143; Santa Fe Energy Co., Case No. KEF- 0144; Samedan Oil Corp., Case No. KEF-0145; Joe E. Smith, Case No. KEF-0146; Petraco-Valley Oil & Refining Co., Case No. LEF-0002; Traco Petroleum, Co. and John A. Mills, Jr., Case No. LEF-0008; Independent Refining Corp. and Independent Trading Corp., Case No. LEF-0009; and the City of Long Beach, California, Case No. LEF-0012. The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

DATE AND ADDRESS: Applications for Refund must be filed by March 31, 1991, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the final procedures by which remittances made by Tri-Service Drilling Co., Tootle Petroleum, Inc., Carbonit Houston, Inc., Meridian Oil, Santa Fe Energy Co., Samedan Oil Corp., Joe E. Smith, Petraco-Valley Oil & Refining Co., Traco Petroleum Co., and John A. Mills, Jr., Independent Refining Corp., and Independent Trading Corp., and the City of Long Beach, California will be distributed. The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The OHA has decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). That policy states that all crude oil overcharge funds shall be divided among the states, the federal government, and injured purchasers of refined products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for Refund must be filed before March 31, 1991, and should be sent to the address set forth at the beginning of this notice. The information which claimants should include in their applications is explained in the Decision, which immediately follows. Any claimant that has already filed a crude oil refund application need not file again.

Dated: May 29, 1990.

George B. Breznay.

Director, Office of Hearings and Appeals.

Decision and Order

Implementation of Special Refund Procedures

May 29, 1990.

Names of Firms: Tri-Service Drilling Company *et al.*

Dates of Filing: May 12, 1989 *et al.*

Case Numbers: KEF-0135 *et al.*

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

The ERA has filed petitions for the Implementation of Special Refund Procedures for crude oil funds which the DOE has obtained in 11 cases from the entities listed in the appendix to this Decision and Order.[1] These entities remitted a total of $3,984,443.57 to the DOE, which deposited the funds in interest-bearing escrow accounts maintained at the Department of the Treasury. *See* appendix. An additional $447,219.20 in interest has accrued on that amount as of April 30, 1990. This Decision and Order establishes the procedures for distributing these funds.

The procedural regulations of the DOE establish general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing these settlement funds.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court approved Settlement Agreement in *In re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan.), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to 20 percent of these crude oil overcharge funds will be reserved initially to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of these funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the state and federal governments for indirect restitution.

The OHA has been applying the MSRP to all subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). That Order provided a period of 30 days for the filing of any objections to the application of the MSRP, and solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 6, 1987, the OHA issued a Notice analyzing the numerous comments which it received in response to the August 1986 Order. 52 FR 11737 (April 10, 1987). The Notice set forth generalized procedures and provided guidance to assist claimants who wish to file refund applications for crude oil monies under the subpart V regulations. All applicants for refunds would be required to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have absorbed the crude oil overcharges and need not submit any further proof of injury to receive a refund. Finally, we stated that refunds would be calculated on the basis of a per gallon refund amount derived by dividing crude oil

[1] In seven cases, the funds were remitted in settlement of enforcement proceedings in which the ERA had alleged that the firms had violated the DOE regulations regarding the production or resale of crude oil. In four cases, the funds represented revenues that exceeded recoupable allowed expenses under the Tertiary Incentive Program, 10 CFR 212.78. The funds in the latter cases did not result from alleged regulatory violations but from crude oil sales at market prices that had the same impact as crude oil overcharges.

violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would include the crude oil overcharge monies that were in the DOE's escrow account at the time of the settlement and a portion of the escrow funds in the M.D.L. 378 escrow at the time of the settlement.

These procedures, which the DOE has applied in numerous cases since the April 10 Notice,[2] have been approved by the United States District Court for the District of Kansas. Various States had filed a Motion with that court claiming that the OHA violated the Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. In denying the Motion, the court concluded that the Settlement Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *In Re: The Department of Energy Stripper Well Exemption Litigation,* 671 F. Supp. 1318, 1323 (D. Kan. 1987), *aff'd,* 857 F. 2d 1481 (Temp. Emer. Ct. App. 1988). The court also held that the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.*, 671 F. Supp. at 1323–24.

II. The Proposed Decisions

On the dates set forth in the appendix, the OHA issued Proposed Decisions establishing tentative procedures to distribute the funds remitted to the DOE by the entities listed in the Appendix. In each case, the OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April 10 Notice. Pursuant to the MSRP, the OHA proposed to reserve 20 percent of the funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining 80 percent of the funds would be distributed to the state and federal governments for indirect restitution. After all valid claims are paid, any remaining funds in the claims reserve would be divided between the state and federal governments.

The OHA further proposed to require applicants for refunds to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the crude oil overcharges. We stated that end-users of petroleum products whose businesses are not related to the petroleum industry could use a presumption that they absorbed the crude oil overcharges and need not submit any further proof of injury to receive a refund. The OHA proposed to calculate refunds on the basis of volumetric amounts as described in the April 10 Notice.

Comments were solicited regarding the tentative distribution process set forth in the Proposed Decisions and Orders. The OHA has received no comments concerning any of the Proposed Decisions. Accordingly, in this Decision and Order we finalize the proposed refund procedures.

III. The Refund Procedures

A. *Refund Claims.* We have decided to apply the procedures discussed in the April 10 Notice to the crude oil subpart V proceedings that are the subject of the present determination. As noted above, $3,984,443.57 (plus interest) in crude oil funds is covered by this Decision and Order. We will reserve 20 percent of these funds, or $796,888.71 (plus interest), for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured parties. The amount of the reserve may be adjusted downward later if circumstances warrant.

The process which the OHA will use to evaluate claims for crude oil refund monies will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *See Mountain Fuel Supply Co.,* 14 DOE ¶ 85,475 (1986). Applicants will be required to document their purchase volumes and to prove that they were injured as a result of the alleged violations. Reasonable estimates may be submitted. It is not generally necessary for applicants to identify their suppliers of petroleum products in order to receive a refund.

Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry and who were not subject to the DOE price regulations, are presumed to have absorbed rather than passed on alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond data showing the volumes of refined product purchased during the period of crude oil price controls (August 19, 1973–January 27, 1981). *A. Tarricone Inc., 15* DOE ¶ 85,495 at 88,893–96 (1987). However, the end-user presumption is rebuttable. *Berry Holding Co.,* 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence which is of sufficient weight to cast serious doubt on whether the applicant was injured, the applicant will lose the benefit of the end-user presumption and be required to produce specific evidence that it was injured.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They may, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, *reprinted in,* 6 Fed. Energy Guidelines ¶ 90,507 (June 19, 1985). See Petroleum Overcharge Distribution and Restitution Act section 3003(b)(2), 15 U.S.C. 4502(b)(2). Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Settlement Agreement have waived their rights to apply for crude oil refunds under subpart V. *See Mid-America Dairymen Inc.* v. *Herrington,* 878 F.2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.,* 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil refund amounts involved in this determination ($3,984,443.57) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel,* 14 DOE at 88,868. This approach reflects the fact that crude oil overcharges were spread equally throughout the country by the Entitlements Program, 10 CFR 211.67.[3] This yields a volumetric refund amount of $0.00000197152 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. *Allerkamp,* 17 DOE at 88,176. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application. However, applicants may be required to submit additional information to document their refund claims. A deadline of June 30, 1988 was established for all first pool crude oil

[2] See, *e.g., Shell Oil Co.,* 17 DOE ¶ 85,204 (1988) (*Shell Oil*); *Ernest A. Allerkamp,* 17 DOE ¶ 85,079 (1988) (*Allerkamp*).

[3] The DOE established the Entitlements Program to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this goal, refiners were required to make transfer payments among themselves through the purchase and sale of "entitlements." This balancing mechanism had the effect of evenly dispersing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. See *Amber Refining Inc.,* 13 DOE ¶ 85,217 at 88,564 (1985).

refund proceedings implemented pursuant to the MSRP up to and including *Shell Oil. See A. Tarricone Inc.*, 16 DOE ¶ 85,681 (1987). A deadline of October 31, 1989 was established for all second pool crude oil proceedings beginning with *World Oil Co.*, 17 DOE ¶ 85,568, *corrected*, 17 DOE ¶ 85,669 (1988), and ending with *Texaco Inc.*, 19 DOE ¶ 85,200, *corrected* 19 DOE ¶ 85,236 (1989). The deadline for filing an application for a refund from the third pool of funds pursuant to this proceeding is March 31, 1991. Notice of any additional amounts available in the future will be published in the **Federal Register.**

To apply for a crude oil refund, an applicant should submit an Application for Refund. That application should contain all of the following information:

(1) Identifying information including the applicant's name, address, and social security number or employer identification number, an indication whether the applicant is a corporation, the name and telephone number of a person to contact for any additional information, and the name and address of the person who should receive the refund check;

(2) A short description of the applicant's business and how it used petroleum products. If the applicant did business under more than one name or a different name during the period of price controls, the applicant should list these names;

(3) If the applicant's firm is owned by another company, or owns other companies, a list of those other companies' names and their relationships to the applicant firm;

(4) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973 through January 27, 1981, the number of gallons of each product purchased on an annual basis, and the total number of gallons for all products purchased on which the applicant bases its claim;

(5) An explanation of how the applicant obtained the volume figures above, and an explanation of its method of estimation if the applicant used estimates to determine its purchase volumes;

(6) A statement that neither the applicant, its parent firm, affiliates, subsidiaries, successors nor assigns has waived any right it may have to receive a refund in these cases (e.g., by having executed and submitted a valid waiver pursuant to any one of the escrow accounts established pursuant to the Stripper Well Agreement);

(7) If the applicant is not an end-user whose business is unrelated to the petroleum industry, a showing that the applicant was injured by the alleged overcharges; and

(8) If the applicant is a regulated utility, a certification that it will notify the state utility commission or other regulatory agency of any refunds received, and that it will pass on the entirety of its refund to its customers.

All applications should be either typed or printed and clearly labeled "Application for Crude Oil Refund." Each applicant must submit an original and one copy of the application to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Although an applicant need not use any special application form to apply for a crude oil refund, a suggested form has been prepared by the OHA and may be obtained by sending a written request to the address listed above.

B. *Payments to the States and Federal Government.* Under the terms of the MSRP, we propose that the remaining 80 percent of the alleged crude oil violation amounts subject to this Decision, or $3,187,554.86 (plus interest), be disbursed in equal shares to the state and federal governments for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to transfer one-half that amount, or $1,593,777.43 in principal, plus accrued interest, into an interest-bearing subaccount for the states and the other half, plus accrued interest, into an interest-bearing subaccount for the federal government. In accordance with prior practice, when the amount available for distribution to the states reaches $10 million, we will direct the DOE's Office of the Controller to make the appropriate disbursements to the individual states. The share or ratio of the funds which each state will receive is contained in exhibit H of the Settlement Agreement. These funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Settlement Agreement.

It is therefore ordered, That:

(1) Applications for Refund from the crude oil funds remitted to the Department of Energy by the entities listed in the appendix to this Decision and Order may now be filed.

(2) All applications submitted pursuant to paragraph (1) must be filed no later than March 31, 1991.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer, pursuant to paragraphs (4), (5), and (6) below, all of the funds from the subaccounts listed in the Appendix.

(4) The Director of Special Accounts and Payroll shall transfer $1,593,777.43 (plus accrued interest), of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-States," Account No. 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $1,593,777.43 (plus accrued interest), of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Federal," Account No. 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $796,888.71 (plus accrued interest), of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Claimants 3," Account No. 999DOE009Z.

Dated: May 29, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

May 29, 1990.

APPENDIX

Name of remitting entity	OHA case No.	ERA case No.	Amount remitted	Interest as of 4/30/90	Date of proposed decision and order
Tri-Service Drilling Co	KEF-0135	670C00196W	$862,500.00	$74,936.61	June 30, 1989.
Tootle Petroleum, Inc	KEF-0140	6A0X00339W	7,615.00	492.14	Oct. 10, 1989.
Carbonit Houston, Inc	KEF-0141	650X00253W	30,000.00	1,880.05	Do.
Meridian Oil	KEF-0143	T00T00001W	693,547.00	58,281.22	Do.
Santa Fe Energy Co	KEF-0144	T00T00002W	531,699.77	43,990.01	Do.
Samedan Oil Corp	KEF-0145	T00T00003W	77,204.00	6,226.61	Do.
Joe E. Smith	KEF-0146	610C00359W	22,500.00	11,966.14	Do.

APPENDIX—Continued

Name of remitting entity	OHA case No.	ERA case No.	Amount remitted	Interest as of 4/30/90	Date of proposed decision and order
Petraco-Valley Oil & Refining Co	LEF-0002	650X00347W	200,000.00	112,684.42	Dec. 15, 1989.
Traco Petroleum Co. and John A. Mills, Jr	LEF-0008	6C0X00279W	203,001.47	8,984.70	Feb. 26, 1990.
Independent Refining Corp. and Independent Trading Corp	LEF-0009	650X00290W	371,177.33	77,657.48	Mar. 27, 1990.
City of Long Beach	LEF-0012	T00T00004W	985,199.00	49,919.82	Mar. 22, 1990.
Totals			3,984.57	447,219.20	

[FR Doc. 90-12860 Filed 6-1-90; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 90-774]

Invitation for Comments on Northern California Regional Public Safety Plan

May 29, 1990.

The Commission has received the public safety radio communications plan for the Northern California area (Region 6).

In accordance with the Commission's Report and Order in General Docket No. 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of Federal Register publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket No. 87-112, 3 FCC Rcd 905 (1987), at paragraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket No. 87-112, Region 6 consists of all of Northern California to the southernmost borders of Monterey, Kings, Tulare, and Inyo Counties. (See General Docket No. 87-112, 3 FCC Rcd 2113 (1988).)

Comments should be clearly identified as submissions to General Docket 90-287, Northern California Area-Region 6, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497 or Fred Thomas, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 90-12884 Filed 6-1-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty] to Chandris Celebrity Cruises

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR part 540):

Fantasia Cruising Inc., (D/B/A Chandris Celebrity Cruises), 900 Third Avenue, New York, NY 10022.

Vessel: Horizon.

Dated: May 29, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-12756 Filed 6-1-90; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 90-15]

Independent Pier Co.; et al; Filing of Complaint and Assignment

Notice is given that a complaint filed by Independent Pier Company ("Complainant") against Philadelphia Port Corporation ("PPC"), Philadelphia Regional Port Authority ("PRPA") and J.H. Stevedoring Company ("JHS") (collectively designated "Respondents") was served May 25, 1990. Complainant alleges that Respondents have violated sections 10 (a)(2), (a)(3), (b)(11), and (d)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709 (a)(2), (a)(3), (b)(11), and (d)(1), by interfering with Complainant's customer relationships; carrying out an unfiled agreement for JHS to take over the current business and customers of Complainant and prevent Complainant from renegotiating a new lease and exercising a right of first refusal under Complainant's existing lease; and engaging in various unjust and unreasonable practices involving respondent JHS replacing Complainant as a marine terminal operator at the Port of Philadelphia. Complainant further alleges that respondents PPC and PRPA have violated sections (10)(d)(3), 10(b)(11), and 10(b)(12) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709 (b)(11), (b)(12), and (d)(3), by refusing to negotiate in good faith with Complainant, refusing to allow Complainant a right of first refusal under Complainant's lease, and assisting respondent JHS in inducing Complainant's customers to switch to JHS.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 45 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by May 27, 1991, and the final decision of the Commission shall be issued by September 27, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 90-12755 Filed 6-1-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Commerzbank AG, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under

§ 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Commerzbank AG*, Republic of Germany, West Germany; to acquire Commerz International Capital Management Gmbh, Frankfurt, West Germany, and engage *de novo* in serving as an investment adviser to one or more investment companies registered under the Investment Company Act of 1940, including sponsoring, organizing and managing a closed-end investment company; providing portfolio investment advice to other persons; and providing general economic information and advice, general economic statistical forecasting services and industry studies, pursuant to § 225.25(b)(4) of the Board's Regulation Y; and providing investment advice, including counsel, publications, written analyses and reports, as a commodity trading advisor registered with the Commodity Futures Trading Commission, with respect to the purchase and sale of futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit and other money market instruments, pursuant to § 225.25(b)(19) of the Board's Regulation Y.

2. *The Nippon Credit Bank, Ltd.*, Tokyo, Japan; to engage *de novo* through Eastbridge Capital, Inc., New York, New York, in acting as a futures commission merchant, pursuant to section 225.25(b)(18).

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *United Citizens Financial Corporation*, New Castle, Kentucky; to engage *de novo* through its subsidiary United Citizens Leasing Company, New Castle, Kentucky, in the leasing of personal property to subsidiary bank and other unrelated entities, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 29, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-12834 Filed 6-1-90; 8:45 am]

BILLING CODE 6210-01-M

Evergreen Bancorp, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 24, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Evergreen Bancorp, Inc.*, Glen Falls, New York; to acquire Champlain Valley Federal Savings and Loan Association, Plattsburg, New York, and thereby engage in owning, controlling, or operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 29, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-12835 Filed 6-1-90; 8:45 am]

BILLING CODE 6210-01-M

Firstrust, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted,

these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1990.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FirsTrust, Inc.,* Cambridge, Nebraska; to acquire 100 percent of the voting shares and merge with Hardin, Inc., Edison, Nebraska, parent of Farmers and Merchants Bank of Edison, Edison, Nebraska.

In connection with this application, FirsTrust, Inc. has also applied to engage in the sale of general insurance in the Edison, Nebraska, community, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 29, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-12836 Filed 6-1-90; 8:45 am]

BILLING CODE 6210-01-M

Mr. Marlin Cluts, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notice are set forth in paragraph 7 of the Act (12 U.S.C. § 1817(j)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 22, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois; 60690:

1. *Messrs. Marlin Cluts, Steve Pfeiffer, Rich Reed, Theodore Tilton, and Harry P. Walker,* all of Leland, Illinois; to acquire an additional 1.64 percent each (totalling 8.2 percent) of the voting shares of Leland National Bancorp, Inc., Leland, Illinois, and thereby indirectly acquire Leland National Bank, Leland, Illinois.

Board of Governors of the Federal Reserve System, May 29, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board

[FR Doc. 90-12837 Filed 6-1-90; 8:45 am]

BILLING CODE 6210-01-M

Old York Road Bancorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 25, 1990.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Old York Road Bancorp, Inc.,* Willow Grove, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Bank and Trust Company of Old York Road, Willow Grove, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Main Street Banks Incorporated,* Covington, Georgia; to acquire 100 percent of the voting shares of Southern Heritage Savings Bank (member bank), Winterville, Georgia.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Principal National Bancorp, Inc.,* Pontiac, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Pontiac National Bank, Pontiac, Illinois.

2. *Ogle County Bancshares,* Rochelle, Illinois; to acquire an additional 1.64 percent (totalling 13.64 percent) of the voting shares of Leland National Bancorp, Inc., Leland, Illinois, and thereby indirectly acquire Leland National Bank, Leland, Illinois.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *U.S.B. Corporation,* Washington, Indiana; to acquire 100 percent of the voting shares and merge with Martinco Financial Corp., Shoals, Indiana, and thereby indirectly acquire The Martin County Bank, Shoals, Indiana.

Board of Governors of the Federal Reserve System, May 29, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-12838 Filed 6-1-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N-0140]

RIN 0905-AC48

Juice and Diluted Juice Beverages; Common or Usual Name for Nonstandardized Foods

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening for 30 days the period for submitting comments on issues pertaining to the common or usual name regulation for diluted fruit or vegetable juice beverages other than diluted orange juice beverages (§ 102.33 (21 CFR 102.33)) that were addressed in the **Federal Register** notice of January 31, 1990 (55 FR 3266). Specifically, the agency requested: (1) Comments on the National Food Processors Association's (NFPA) petition requesting that the agency initiate rulemaking to replace this regulation with a new regulation; (2) comments on how to accurately represent the contents of juice blend products and diluted juice blend products containing one or more characterizing flavors; (3) comments on naming diluted juice beverages containing modified juices; and (4) comments on the general issue of the common or usual name regulation for diluted juice beverages (§ 102.33). FDA is reopening the comment period in response to several requests for extension of the comment period.

DATES: Written comments by July 5, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Terry C. Troxell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0229.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 31, 1990 (55 FR 3266), FDA published a notice that requested comments from interested persons on a petition from the NFPA requesting that the agency initiate rulemaking to replace the common or usual name regulations (§ 102.33) for diluted fruit or vegetable juices other than diluted orange juice beverages. Among other things, NFPA suggested that the percentage of juice contained in a juice or diluted juice beverage be declared on the information panel rather than on the principal display panel. The notice also requested comments on how to represent accurately the contents of juice blend products and diluted juice blend products containing one or more characterizing flavors and on the general issue of the common or usual name regulation for diluted juice beverages (§ 102.33), including naming diluted juice beverages containing modified juices. The agency announced that it intended to consider these comments as well as comments previously submitted in devising its next action regarding the diluted juice beverage regulation. The initial comment period ended on April 2, 1990.

The agency has received several requests for a 30- or 60-day extension of the comment period, including those from the Processed Apples Institute, Inc., the National Juice Products Association, Dole Packaged Foods Co., Florida Citrus Processors Association, the Florida Department of Citrus, and the NFPA. Two of the requesters noted that their annual meetings held in April would provide their members an opportunity to participate in developing a consensus opinion with regard to the issues raised in the notice. The requests also argued that an extension was appropriate because of the number of issues raised and their importance, the inclusion of complex new issues, and the technical implications created by the issues contained in the notice.

FDA considers it reasonable and appropriate to reopen the comment period to provide some additional time to allow for the submission of informative comments pertinent to the issues addressed in the notice, as well as representative of the positions of all interested parties. However, given the amount of time that has elapsed since the close of the comment period, FDA believes that 30 additional days is sufficient time for the remaining comments to be submitted. Therefore, FDA is reopening the comment period for 30 days.

Interested persons may, on or before July 5, 1990, submit to the Dockets Management Branch (address above) written comments regarding the NFPA petition or any other matter relating to the common or usual name regulation (§ 102.33) for diluted fruit or vegetable juice beverages other than diluted orange juice beverages. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 25, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-12754 Filed 6-1-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1990.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: June 24-26, 1990, 8:30 a.m.

Place: Days Inn, 125 Main Street, Rapid City, South Dakota 57701.

The meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

Agenda: Agenda will include: Bureau and Division update, presentations on Federal and State Loan Repayment Programs, and manpower strategies. Presentations will be made by tribal health directors and chairmen of the tribes. On Monday, June 25, the Council will depart from the hotel at 8 a.m. to conduct site visits to Indian Health Service hospitals at Pine Ridge and Rosebud, South Dakota. Transportation will not be provided for visitors and observers. The Tuesday meeting will begin at 8:30 a.m. and adjourn at 1 p.m.

Anyone requiring information regarding the subject Council should contact Anna Mae Voigt, National Advisory Council on the National Health Service Corps, room 7A-39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1470.

Agenda items are subject to change as priorities dictate.

Dated: May 29, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90-12481 Filed 6-1-90; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Subcommittees B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Public Law 92-463, notice is hereby given of meetings of Subcommittees B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK).

These meetings will be open to the public to discuss administrative details at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Mrs. Winnie Martinez, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, room 9A19, Bethesda, Maryland 20892, 301-496-6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee B

Executive Secretary: Judith M. Podskalny, Westwood Building, Room 421A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-7583

Dates of Meeting: June 6-7, 1990

Place of Meeting: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, Maryland 20814

Open: June 6, 7:00 a.m.-7:30 a.m.

Closed: June 6, 7:30 a.m. to recess; June 7, 7:00 a.m. to adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C

Executive Secretary: Daniel Matsumoto, Westwood Building, Room 404B, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-8830

Dates of Meeting: June 4, 1990

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852

Open: June 4, 8:30 a.m.-9:30 a.m.

Closed: June 4, 9:30 a.m. to adjournment

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D

Executive Secretary: Ann A. Hagan, Westwood Building, Room 417A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301-496-7841

Date of Meeting: June 8, 1990

Place of Meeting: Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20814

Open: June 8, 8:00 a.m.-8:30 a.m.

Closed: June 8, 8:30 a.m. to adjournment.

Dated: May 25, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-12874 Filed 6-1-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting, National Kidney and Urologic Diseases Advisory Board

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Kidney and Urologic Diseases Advisory Board on June 28-29, 1990. On June 28th, the research and health care issues commmittee meetings will be held from 6:00 p.m. to 9:00 p.m. On June 29th, the Board meeting will begin at 8:00 a.m. to approximately 1:15 p.m. at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814. The meeting, which will be open to the public, is being held to discuss the Board's activities and the development of the long-range plan to combat kidney and urologic diseases. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Dr. Ralph Bain, Executive Director, National Kidney and Urologic Diseases Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-6045, will provde on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: May 25, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-12875 Filed 6-1-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Dichlorvos

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of dichlorvos, an organophosphorus pesticide.

Toxicology and carcinogenesis studies of dichlorvos were conducted by administering 0, 4, or 8 mg/kg dichlorvos in corn oil by gavage 5 days per week for 103 weeks to groups of 50 F344/N rats of each sex. Groups of 50 male B6C3F1 mice were administered 0, 10, or 20 mg/kg dichlorvos on the same schedule, and groups of 50 B63CF1 female mice were administered 0, 20, or 40 mg/kg dichlorvos.

Under the conditions of these 2-year gavage studies, there was some evidence of carcinogenic activity [1] of dichlorvos for male F344/N rats, as shown by increased incidences of adenomas of the exocrine pancreas and mononuclear cell leukemia. There was equivocal evidence of carcinogenic activity of dichlorvos for female F344/N rats, as shown by increased incidences of adenomas of the exocrine pancreas and mammary gland fibroadenomas. There was some evidence of carcinogenic activity of dichlorvos for male B6C3F1 mice, as shown by

[1] The NTP uses five categories of evidence of carcinogenic activity to summarize the strength of the evidence observed in each experiment: two categories for positive results ("clear evidence" and "some evidence"); one category for uncertain findings ("equivocal evidence"); one category for no observable effects ("no evidence"); and one category for experiments that because of major flaws cannot be evaluated ("inadequate study").

increased incidences of forestomach squamous cell papillomas. There was clear evidence of carcinogenic activity of dichlorvos for female B6C3F1 mice, as shown by increased incidences of forestomach squamous cell papillomas.

The study scientist for these studies is Dr. Po C. Chan. Questions or comments about the conduct of this Technical Report should be directed to Dr. Chan at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541–7561.

Copies of Toxicology and Carcinogenesis Studies of Dichlorvos in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 342) are available without charge from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: May 29, 1990.

David P. Rall,

Director.

[FR Doc. 90–12876 Filed 6–1–90; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–010–00–4333–10]

American River National Recreation Area; Availability of Draft Feasibility Study

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The purpose, conditions, and extent of this study are explicitly stated in Public Law 101–121. In the language of the house report, the study is:

* * * for the purpose of determining the feasibility and desirability of designating a National Recreation Area (NRA) within the American River watershed in association with a flood control or multi-purpose dam located at or near the site of the Auburn Dam. Such a study shall assume the potential floodability of the NRA as a result of the construction of a multi-purpose dam or the eventual enlargement of a facility built primarily or exclusively for flood control in the near term; shall include the 42,000 acres designated as the total property to be taken by the original Auburn Dam on the North Fork of the American River; may include additional lands contiguous to the 42,000 acres, upstream to Eucher Bar within the U.S. Forest Service, and along the South Fork of the American River from Salmon Falls bridge on Folsom Lake to Chili Bar; and shall define the best relationship between the NRA and the existing Nimbus/Folsom complex and the Lower American River.

DOCUMENT: Copies of the draft study are available at each public library located in Sacramento, Placer and El Dorado Counties, California. Public reading copies are also available for review at the following locations:

BLM Office of Public Affairs, Room 5600, 18th and C Streets NW., Washington, DC 20240.

BLM California State Office, 2800 Cottage Way, Sacramento, CA 95825.

BLM Folsom Resources Area, 63 Natoma Street, Folsom, CA 95630.

DATES: Written comments on the draft study must be submitted or postmarked no later than July 20, 1990. Oral and/or written comments may also be presented at three public meetings to be held:

June 26, 1990, 7:00 p.m.–10:00 p.m. Placer High School Auditorium, 275 Orange Street, Auburn, California 95603.

July 5, 1990, 7:00 p.m.–10:00 p.m. Sacramento County Board of Supervisors Chambers, 700 "H" Street, Sacramento, CA 95814.

July 10, 1990, 7:00 p.m.–10:00 p.m. Placerville Inn, Highway 50 and Missouri Flat Road, 6850 Green Leaf Drive, Placerville, California 95667.

ADDRESSES: Written comments on the document should be addressed to David N. Harris, Team Leader, Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. Further information can be obtained by writing to the same office; the telephone number is (916) 985–4474.

Dated: May 23, 1990.

D.K. Swickard,

Area Manager.

[FR Doc. 90–12760 Filed 6–1–90; 8:45 am]

BILLING CODE 4310–40–M

[OR–130–00–4410–08; GPO–252]

Availability of Final Planning Analysis for Iceberg Point and Point Colville, Lopez Island, WA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final planning analysis for Iceberg Point and Point Colville and invitation to comment.

SUMMARY: Oregon and Washington; Spokane District; Final Planning Analysis for Iceberg Point and Point Colville.

Notice is hereby given of the availability of the Final Planning Analysis and Environmental Assessment for Iceberg Point and Point Colville, located on Lopez Island in San Juan County, Washington. The public review/protest period closes 30 days from the publication date of this notice.

SUPPLEMENTARY INFORMATION: This Planning Analysis addresses the management of the following lands under the jurisdiction of the BLM on Lopez Island, San Juan County, Washington: Section 23, Lot 4, Section 24, Lots 6 and 7, T. 34 N., R. 2 W., containing 55.59 acres on Iceberg Point, and Section 21, Lot 6, T. 34 N., R. 1 W., containing 60.00 acres on Point Colville. The issues addressed in this Planning Analysis are Legal Access and Recreation Management. The Preferred Alternative would designate two parcels are Areas of Critical Environmental Concern (ACEC). Under this alternative the emphasis would be on preserving the natural values. Opportunities for visitor use would be provided to the extent they are compatible with the preservation of natural values, particularly scientific and educational values. Where a choice must be made between preservation of the natural values and allowing visitor use, preservation of the natural resources will be the primary consideration.

Two other alternatives are considered in addition to the Preferred Alternative. They are a Research Alternative (Alternative No. 2) and No Action Alternative (Alternative No. 3). Under the Research Alternative the ACEC designation would also be made, but the primary management emphasis would be for research and educational purposes and opportunities for visitor use would not be provided. Any uses of Iceberg Point and Point Colville under this alternative must focus on research and educational purposes. Under the No Action Alternative no formal protective designations would be made and the existing situation would continue. If the Preferred Alternative were adopted the following resource use limitations would occur:

—Motorized vehicles would not be allowed on either area except as follows: Emergency vehicles; Motorized vehicles along the existing road crossing the Point Colville parcel; Coast Guard vehicular access to maintain navigational aids on Iceberg Point.

—All fires and overnight camping would be prohibited.

—Fuelwood cutting and commercial timber sales would be prohibited.

—No rights-of-way would be permitted.

—Permits would be required for groups of ten or more persons.

—Establish Regular Patrols by BLM Personnel.

—Enter into law enforcement agreement with San Juan County Sheriff.

—Establish a monitoring program focusing on preserving natural qualities of the Area.

FOR FURTHER INFORMATION:

Joseph K. Buesing, District Manager, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202, or

James F. Fisher, Area Manager, Wenatchee Resource Area Office, 1133 North Western Avenue, Wenatchee, Washington 98801.

Copies of the Plan are available for review at the following offices and libraries:

U.S. Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202;

U.S. Bureau of Land Management, Wenatchee Resource Area Office, 1133 North Western Avenue, Wenatchee, Washington 98801;

Washington State Library, State Library Building, Olympia, Washington 98504;

San Juan County Court House Annex Library, 135 Rhone Street, Friday Harbor, Washington 98250.

A limited supply of copies of the Planning Analysis are available upon request to the Spokane District Manager and the Wenatchee Resource Area Manager.

Dated: May 23, 1990.

Joseph K. Buesing,

District Manager.

[FR Doc. 90-12764 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-33-M

[ID-020-41-5101-09-XDBJ]

Southwest Intertie Project 500kv Powerline; Intention to Enlarge Scope of Environmental Impact Statement/ Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to enlarge the scope of the Southwest Intertie Project (SWIP) 500kv Powerline Environmental Impact Statement/Plan Amendment (EIS/PA).

SUMMARY: Notice is hereby given that the Bureau of Land Management in cooperation with the Forest Service, Bureau of Reclamation, and the National Park Service is proposing to expand the scope of the SWIP EIS/PA as originally described in **Federal Register** Publication Vol. 54, No. 41, pages 9092 to 9093, dated March 3, 1989. On May 15, 1990, Idaho Power Company filed an amendment to their right-of-way application, I-26446, that would expand the scope of the project. The amendment proposes to add an additional segment of transmission line that would extend from Ely, Nevada, to a proposed substation located just north of Las Vegas, Nevada. This proposed segment would occupy the utility corridor established in the White Pine Power Project EIS Record of Decision.

DATES: The public, state and local governments, and other Federal agencies are invited to participate in the EIS/PA process. Written comments will be accepted until July 31, 1990.

In addition to written comments, the following public scoping meetings will be held in: Ely, Nevada, Bristlecone Convention Center, 150 6th Street, June 26, 1990, at 7:30 p.m. to 9:00 p.m.; Caliente, Nevada, Caliente Resource Area Conference Room, June 27, 1990, at 7:30 p.m. to 9:00 p.m.; Las Vegas, Nevada, BLM District Office Conference Room, 4765 Vegas Drive, June 28, 1990, at 7:30 p.m. to 9:00 p.m.

ADDRESSES: Written comments should be addressed to: Gerald Quinn, District Manager, Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Karl Simonson, BLM Project Manager, Burley District Office, Route 3, Box 1, Burley, Idaho 83318; Phone (208) 678-5514.

SUPPLEMENTARY INFORMATION: The Idaho Power Company orginally applied for a 200 foot wide right-of-way to allow the construction, operation and maintenance of a 500kv power transmission line extending from their Midpoint Substation near Shoshone, Idaho, south to Ely, Nevada. From Ely, the line would extend east to a substation near the Intermountain Power Project at Delta, Utah. This segment of the transmission line would interconnect with facilities jointly developed and owned by Los Angeles Department of Water and Power, Nevada Power, Utah Power and Light, the Utah Associated Municipal Power System and Desert Generation and Transmission Cooperative. On May 15, 1990, Idaho Power Company filed an amendment to their right-of-way application, I-26446, to construct, operate, and maintain an additional segment of transmission line that would extend south of Ely, Nevada, to a proposed substation site just north of Las Vegas, Nevada. This segment of line is proposed to occupy the corridor established in the White Pine Power Project EIS Record of Decision.

The SWIP project as presently proposed would be a 500kv power transmission line that would extend approximately 700 miles from Idaho Power Company's Midpoint Substation south to a proposed substation located just north of Las Vegas, Nevada. The project would also include a segment of line that would run east from Ely, Nevada, to a substation site located near the Intermountain Power Project at Delta, Utah. As now proposed, construction would begin in 1993 and end in 1995. The desired in-service date is 1995.

As the expanded scope of the Southwest Intertie Project involves the use of the White Pine Power Project transmission line corridor, the scoping process will seek to identify issues and concerns the public, local governmental agencies, and other Federal agencies have that may have developed since the White Pine EIS was completed.

Dated: May 25, 1990.

Delmar Vail,

Idaho State Director.

[FR Doc. 90-12769 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-GG-M

[WY-920-00-4111-15; WYW90408]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

May 10, 1990.

Pursuant to the provisions of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW90408 for lands in Carbon County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW90408 effective February 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Beverly J. Poteet,

Supervisory Land Law Examiner.

[FR Doc. 90-12761 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-00-4111-15; WYW96997]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

May 23, 1990.

Pursuant to the provisions of Public Law 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW96997 for lands in Carbon County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW96997 effective January 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 90–12774 Filed 6–1–90; 8:45 am]

BILLING CODE 4310–22–M

[OR-943-00-4130-12; GPO-238; OR-43347]

Order Providing for Opening of Land; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will open 20.1 acres of acquired land to surface entry, mining and mineral leasing.

EFFECTIVE DATE: July 9, 1990.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–231–6905.

SUPPLEMENTARY INFORMATION: Under the authority of Section 205 of the Federal Policy and Management Act of 1976, 90 Stat. 2755; 43 U.S.C. 1715, the following described land was acquired by the United States by donation to be administered as public land under the jurisdiction of the Bureau of Land Management:

Willamette Meridian

T. 20 N., R. 17 E.,

Sec. 10, that portion of the south 860 feet of the NE¼SE¼ which lies east of the east boundaries of the Collins Placer and Becker Placer said 860 feet being measured at right angles to the south boundary of said NE¼SE¼.

The area described contained approximately 20.1 acres in Kittitas County, Washington.

At 8:30 a.m., on July 9, 1990, the above described land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on July 9, 1990, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

At 8:30 a.m., on July 9, 1990, the above described land will be open to location and entry under the United States mining laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

At 8:30 a.m., on July 9, 1990, the above described land will be open to applications and offers under the mineral leasing laws.

Dated: May 24, 1990.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90–12767 Filed 6–1–90; 8:45 am]

BILLING CODE 4310–33–M

[CA-940-00-4212-13; CACA 23937]

California; Realty Action; Exchange of Public and Private Lands in San Bernardino County and Order Providing for Opening of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and opening order.

ADDRESSES: Inquiries concerning this land should be addressed to the Chief, Branch of Adjudication and Records, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E–2845), Sacramento, California 95825.

SUMMARY: The purpose of this exchange was to acquire significant natural resources and recreation lands, and to create more manageable public land units in the following areas of the California Desert District: Afton Canyon Natural Area, Johnson Valley Off-Highway Vehicle Area, and Juniper Flats Cultural Area. Disposal of the fragmented and isolated public lands is consistent with the land tenure adjustment objectives of the California Desert Plan. The Exchange benefited the general public and the private sector. The public interest was well served by completing the exchange. The land acquired in this exchange will be open to operation of the public land laws and to the full operation of the United States mining and mineral leasing laws except those third party rights as listed below.

FOR FURTHER INFORMATION CONTACT: Joan Mangold, California State Office, (916) 978–4820.

1. The United States issued two land exchange conveyance documents to ARC-Las Flores Limited Partnership on April 17, 1990, pursuant to the authority of section 206 of the Act of October 21, 1976 (43 U.S.C. 1716) for the following described public land:

San Bernardino Meridian, California

T. 3 N., R. 4 W.,
Sec. 16, NE¼NE¼, S½NE¼, N½SE¼, and SW¼SE¼;
Sec. 19, lots 3, 5, 6, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, and N½SE¼;
Sec. 20, S½NE¼, NW¼, and NE¼SW¼;
Sec. 21, S½NW¼;
Sec. 30, SE¼NE¼, E½NW¼, E½W½ NW¼, E½NE¼SW¼, E½W½NE¼ SW¼, and NW¼SE¼.
T. 3 N., R. 5 W.,
Sec. 24, SE¼NE¼, NE¼SE¼, and S½ SE¼;
Sec. 25, E½NE¼, NW¼NE¼SE¼, N½ SW¼NE¼SE¼, E½NE¼NW¼SE¼, and NE¼SE¼NW¼SE¼.

The area described contains 1,529.60 acres in San Bernardino County.

2. In exchange for the land described in paragraph 1, on April 16, 1990, the United States accepted title to the following described private land from ARC-Las Flores Limited Partnership.

San Bernardino Meridian, California

T. 3 N., R. 2 W.,
Sec. 5, S½NE¼.

Except all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits.

T. 3 N., R. 3 W.,
Sec. 2, lots 5, 6, 11 and 12;
Sec. 3, lots 7, 8, 9, and 10;
Sec. 11, NE¼SE¼.

Except all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits.

T. 5 N., R. 3 E.,
Sec. 16, N½,SE¼.

Except all oil, gas, oil shale, coal, phosphate, sodium, gold, silver, and all other mineral deposits.

T. 5 N., R. 4 E.
Sec. 13, NE¼, E½W½E½NW¼, E½W½ SW¼, E½SW¼, SE¼;
Sec. 16, lots 1 thru 4, inclusive, E½W½, E½;
Sec. 36, all.

Except all coal, oil, gas and other mineral deposits in sec. 16 and all oil, gas, oil shale, coal, phosphate, sodium, gold, silver and all other mineral deposits in section 36.

T. 11 N., R. 5 E.
Sec. 1, all;
Sec. 36, all.

Except all oil, gas, and other minerals reserved in sec. 1 and all oil, gas, oil shale, coal, phosphate, sodium, gold, silver and all other mineral deposits in Section 36.

An exact description of the mineral reservation for each parcel is on file in the public room at the above cited address.

The areas described aggregate 3,471.35 acres in San Bernardino and Inyo Counties.

3. The values of the Federal public land and the non-Federal private land were equalized by a cash payment submitted by ARC-Las Flores Limited Partnership.

4. At 10 a.m. on July 9, 1990, the lands described above in paragraph 2 shall be opened to the operation of the public land laws generally, subject to valid existing rights, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 9, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 10 a.m. on July 9, 1990, the land described in paragraph 2 above shall be opened to location under the United States mining laws insofar as the mineral rights were conveyed to the United States. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of opening is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

6. At 10 a.m. on July 9, 1990, the land described in paragraph 2 above shall be opened to applications and offers under the mineral leasing laws insofar as the mineral rights were conveyed to the United States.

Dated: May 25, 1990.

Robert C. Nauert,

Chief, Branch of Adjudication and Records.

[FR Doc. 90-12771 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-00-4212-13; CACA 23722]

California; Realty Action; Exchange of Public and Private Lands in Fresno, Monterey, and San Benito Counties and Order Providing for Opening of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Issuance of Land Exchange Conveyance Document and Opening Order.

ADDRESSES: Inquiries concerning this land should be addressed to the Chief, Branch of Adjudication and Records, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2845), Sacramento, California 95825.

SUMMARY: The purpose of the exchange is to acquire the non-Federal lands to improve access to existing Federal lands for recreational users, to acquire habitat occupied by several endangered wildlife species including the blunt-nosed leopard lizard, giant kangaroo rat, and San Joaquin kit fox, and to acquire significant riparian habitat areas. Only the surface estate of both Federal and private lands have been exchanged. Ownership of the mineral estate was not affected by this exchange.

FOR FURTHER INFORMATION CONTACT: Steve Addington, Hollister Resource Area, Bureau of Land Management, P.O. Box 365, Hollister, CA 95024 (408) 637-8183.

1. The United States issued a land exchange conveyance document to CAL-BLMX, Inc., a California Corporation on December 15, 1989 pursuant to the authority of Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716) for the following described lands:

Mount Diablo Meridian, California

T. 17 S., R. 4 E.,
sec. 13, W½SW¼;
sec. 14, NE¼NE¼, S½NE¼, S½ NW¼,SW¼ and SE¼;
sec. 15, SE¼NE¼ and E½SE¼;
sec. 22, SE¼NE¼;
sec. 23, N½NE¼, SW¼NE¼, and N½ NW¼;
sec. 24, NW¼NW¼ and SE¼NW¼.
T. 17 S., R. 10 E.,
sec. 26, S½SW¼ and SW¼SE¼;
sec. 34, N½NE¼;
sec. 35, NW¼NW¼.
T. 18 S., R. 10 E.,
sec. 1, lot 15, SE¼NW¼, N½SW¼, and SW¼SW¼;
sec. 2, SW¼NE¼ and N½SE¼.
T. 17 S., R. 11 E.,
sec. 18, lots 1, 2, 3, 9, 10, 11, 12, 13, N½SE¼, and SW¼SE¼.
sec. 19, lots 11 and 12.
T. 21 S., R. 11 E.,
sec. 13, S½NE¼, S½NW¼, SW¼, and SW¼SE¼;
sec. 14, S½SE¼;
sec. 23, E½NE¼, NE¼SW¼, and N½SE¼;
sec. 24, W½NE¼, NW¼, and N½SW¼.
T. 22 S., R. 12 E.,
sec. 17, lots 12 and 15;
sec. 18, lots 3, 4, E½NE¼, SW¼, NW¼ SE¼, and S½SE¼;
sec. 19, lots 1 to 4, inclusive, NE¼,E½ NW¼, E½SW¼, N½SE¼, and SW¼ SE¼;
sec. 20, lots 1 to 5, inclusive, 8, 11, 12, and NW¼NE¼;
sec. 21, lots 6 to 11, inclusive, and S½ NW¼;
sec. 28, lots 3 to 6, inclusive;
sec. 29, lots 1 to 8, inclusive, and 10 to 14, inclusive;
sec. 30, lot 1, S½NE¼, E½SW¼, and SE¼;
sec. 31, E½NE¼ and NE¼NW¼;
sec. 32, lots 3, 4, and 5.
T. 23 S., R. 12 E.,
sec. 4, SW¼NW¼.
T. 23 S., R. 13 E.,
sec. 21, W½SE¼;
sec. 35, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼, and SW¼SE¼.
T. 22 S., R. 14 E.,
sec. 26, SE¼NW¼;
sec. 27, E½SE¼;
sec. 32, SE¼NE¼;
sec. 34, S½NE¼, E½SW¼, and SE¼;
sec. 35, SW¼.
T. 23 S., R. 14 E.,
sec. 3, lot 1, SE¼NE¼, SE¼SW¼, E½ SE¼, and SW¼SE¼;
sec. 10, NE¼, N½NW¼, and SW¼SW¼.
T. 23 S., R. 15 E.,
sec. 2, S½.

The area described contains 7,969.93 acres in Fresno, Monterey, and San Benito Counties.

2. In exchange for the lands described in paragraph 1, on December 15, 1989, the United States accepted title to the following described private lands from CAL-BLMX, Inc., a California Corporation.

Mount Diablo Meridian, California

T. 16 S., R. 10 E.,
sec. 12, S½ of lot 5, all of lots 12 and 13;
sec. 13, lot 4, SW¼NE¼, N½NW¼, SE¼ NW¼, SW¼SE¼, NW¼SE¼, NE¼ SW¼.

T. 15 S., R. 12 E.,
sec. 17, E½SE¼;
sec. 20, NE¼NE¼, S½NE¼, SE¼NW¼, S½.

3. The above land descriptions contain exceptions too numerous to list here. A precise description of the exceptions is available in the case file CACA 23722 in the California State Office.

4. The appraised value of the Federal lands exceeds the appraised value of the non-Federal lands by $10,420.00, and the cash difference represents 2.54% of the value of the public lands. Ordinarily, a cash payment of the value difference would be required from CAL-BLMX, Inc., to the United States to equalize values; however, pursuant to Sec. 9 of the Federal Land Exchange Facilitation Act of 1988 (102 Stat. 1086), it has been determined that the exchange of lands will be facilitated and the public interest better served by the waiver of cash equilization payment.

5. At 10 a.m. on July 9, 1990, the land described in paragraph 2 will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 9, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: May 2, 1990.

Robert C. Nauert,

Chief, Branch of Adjudication and Records.

[FR Doc. 90-12772 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-09-4920-10-4410; N-48869]

Realty Action; Private Exchange in Clark and Washoe Counties, NV

The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716):

T 22 S., R. 61 E., Mount Diablo Meridian, Nevada
Sec. 8: Lot 39
Sec. 17: NW¼NE¼, S½NE¼NE¼SW¼NE¼, W½NE¼SW¼NE¼, SE¼NE¼SW¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, W½NE¼NW¼SE¼, E½W½NE¼NW¼SE¼, E½NE¼NW¼NW¼SE¼, E½NE¼SW¼NW¼SE¼, N½SE¼NW¼SE¼.

comprising 96.25 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from D. Donald Lonie, Jr.:

T. 19 N., R. 19 E., Mount Diablo Meridan, Nevada
Sec. 31: All.
Sec. 32: N½NW¼, SW¼NW¼, NW¼SW¼.

comprising 798.03 acres of private land.

The purpose of this exchange is to acquire the non-federal lands which are located continuous to the boundary of the Toiyable National Forest and the Mt. Rose Wilderness. The lands have significant resource and environmental values inlcuding watershed management, geologic features, scenic values, wildlife habitat and provide physical and legal access which would make them a valuable addition to the National Forest system. The public interest would be well served by completing this exchange.

The values of the land to be exchanged are approximately equal. Full equalization of values will be achieved by payment to the United States by D. Donald Lonie, Jr. of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership. All minerals for both the selected Federal and the offered private land will be exchanged and will not be reserved.

The lands to be transferred from private ownership will not be subject to any reservations or exceptions. Lands to be transferred from the United States will be subject to the following easements, reservations and exceptions:

1. Excepting and reserving to the United States of America a right-of-way for ditches and canals constructed pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. Subject to right-of-way NEV-012235, granted to Nevada Power Company for a powerline easement.

3. Subject to right-of-way NEV-055091, granted to Nevada Department of Transportation for Interstate 15 and related improvements.

4. Subject to right-of-way N-906, granted to Nevada Power Company for a powerline easement.

5. Subject to right-of-way N-1431, granted to Nevada Power Company for a powerline easement.

6. Subject to right-of-way N-47834, granted to Las Vegas Valley Water District for a water pipeline system.

7. Easements as follows, in favor of Clark County, for roads, public utilities and floor control purposes to ensure continued ingress and egress to adjacent lands, all within section 17, T. 22 S., R. 61 E., Mount Diablo Meridian.

The north 50', the east 30' and the south 30' of the NW¼NE¼;

That certain spandrel area bounded on the north by the south line of said north 50', on the east by the west line of the east 30', and on the southwest by a 25' radius arc concave southwesteriy and tangent to the south line of the north 50' and the west line of the east 30';

That certain spandrel area bounded on the south by the north line of the south 30', on the east by the west line of the east 30', and on the northwest by a 15' radius arc concave northwesterly and tangent to the north line of the south 30' and the west line of the east 30';

The north 30' and the south 40' of the W½SW¼NE¼;

The north 30' of the NW¼NE¼SW¼NE¼;

The south 40' of the SE¼SW¼NE¼;

The east 30' of the S½NE¼NE¼SW¼NE¼, S½NE¼SW¼NE¼ and SE¼SW¼NE¼;

That certain spandrel area bounded on the south by the north line of the south 40', on the east by the west line of the east 30', and on the northwest by a 20' radius arc concave northwesterly and tangent to the north line of the south 40' and the west line of the east 30'.

Publication of this notice in the **Federal Register** will segregate the public lands described above from all forms of appropriation under the public land laws, including the general mining laws for a period of two years from date of first publication.

Further information concerning this exchange can be obtained by contacting the Forest Supervisor, Toiyabe National Forest, U.S. Forest Service, 1200 Franklin Way, Sparks, Nevada 89431, or the District Manager, Las Vegas District, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126.

For a period of 45 days from date of first publication, interested parties may submit comments to the District Manager, Las Vegas District, Bureau of Land Management P.O. Box 26569, Las Vegas, Nevada 89126.

Dated: May 22, 1990.

Ben Collins,

District Manager.

[FR Doc. 90-12765 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-HC-M

[OR-110-6301-11; OR-910-GPO-250; OR 45927]

Realty Action; Classification of Public Lands for Recreation and Public Purposes; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—classification of public lands in Josephine County.

SUMMARY: The following described public land has been examined and determined to be unsuitable for classification for lease as a go cart track under the Recreation and Public Purposes Act of June 14, 1926 amended (43 U.S.C. 869 et seq.):

Willamette Meridian, Oregon

T. 40 S., R. 8 W., Section 7: Lots 1 and 2 (O&C lands)

Containing 42.29 acres.

Josephine County has filed an application to lease the above described lands under the said Act of June 14, 1926, for use as a go-cart track. The proposed use is not consistent with the Special Status Species Management Section of BLM Manual 6840.06C which outlines management requirements in areas with known threatened or endangered plants (T&E), or candidates for T&E listing. A plant found at the location described above is a candidate T&E plant. The manual states that the BLM shall carry out management, consistent with the principles of multiple use, for the conservation of candidate species and their habitats and shall ensure that actions authorized, funded, and carried out do not contribute to the need to list any of the species as T&E. The land is, therefore, classified as unsuitable for the proposed use and the application is rejected.

DATES: For a period up to and including July 19, 1990, interested parties may submit comments to the Medford District Manager at the address shown below. Any objections will be reviewed by the Oregon State Director, Bureau of Land Management, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior, and will become effective August 3, 19980.

ADDRESSES: Information concerning this application is available for review at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97504.

FOR FURTHER INFORMATION CONTACT: Harold Belisle, Grants Pass Area Manager, Medford District Office, at (503) 770-2200.

David A. Jones,

District Manager.

[FR Doc. 90-12768 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-33-M

[OR-056-4333-13; GPO-229]

Prohibited Acts in Deschutes National Wild and Scenic River Area

May 24, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice serves to publish existing management policies and outline administrative direction pending completion of the Deschutes Wild and Scenic River Management Plan. Further administrative action may be published upon completion of said plan.

Pursuant to 43 CFR 8351.2-1, the following acts are prohibited on all public lands within the preliminary boundaries of the Deschutes River component of the National Wild and Scenic Rivers System administered by the Bureau of Land Management:

1. Camping

a. Camping longer than any established camping limits within the Deschutes Wild and Scenic River

b. Digging or leveling the ground at any campsite.

c. Installation of permanent camping facilities.

d. Camping on river islands, or any area posted as closed to that use.

e. Occupying between the hours of 10:00 pm and 7:00 am any place designated for day use only.

f. Leaving campground equipment, site alterations or refuse after departing any campsite.

2. Fires

a. Building or maintaining any open campfires except those contained in a firepan or similar metal container with sides measuring at least 2" in height.

b. Leaving any fire unattended or without completely extinguishing it.

c. Burning items such as tin, aluminum, glass or other non-combustible items in any campfire.

d. Throwing or discarding lighted or smoldering material, or lighting, tending or using a fire, stove or lantern in such a manner that threatens, causes damage to or results in the burning of property or resources, or creates a public safety hazard.

e. Using or possessing fireworks or firecrackers.

f. Failing to observe any fire orders, closure regulations or notices issued by the Bureau of Land Management or Oregon Department of Forestry.

3. Sanitation and Refuse

a. Disposing of refuse in other than refuse receptacles.

b. Depositing refuse in the plumbing fixtures or vaults of a toilet facility.

c. Using government refuse receptacle for dumping household, commercial or industrial refuse brought in as such from private or municipal property except in accordance with conditions established by an authorized official.

d. Disposal of human body waste except at designated locations or fixtures provided for that purpose.

e. Draining any refuse from a trailer or vehicle, except in facilities provided for that purpose.

4. Firearms

a. Discharging any firearm between: 3rd Sat. May and August 31, or at any time within a developed recreation site.

b. Discharging a firearm at any time within 150 yards of a residence, building, developed recreation site, or occupied area.

c. Discharging a firearm at any time in violation of state law.

5. Disorderly Conduct

a. A person commits disorderly conduct when, with the intent to cause public alarm, nuisance, jeopardy or violence, or knowingly or recklessly committing a risk thereof, such a person commits any of the following prohibited acts:

—Engages in fighting, threatening or violent behavior;

—Uses language, an utterance or gesture, or engages in a display or act that is obscene, physically threatening or menacing, or done in a manner that is likely to inflict injury or incite an immediate breach of the peace;

—Nudity and indecent exposure;

—Make noise that is unreasonable, considering the nature and purpose of the actor's conduct, location, time of day or night, and other factors that would govern the conduct of a reasonably prudent person under the circumstances;

—Create or maintain a hazardous or physically offensive condition.

6. Vehicles

a. Parking in such a manner as to impede or obstruct the normal flow of traffic, create a hazardous condition, or parking in any area designated as closed to parking.

b. Exceed posted speed limits.

c. Disregard traffic control devices.

d. Failure to report a motor vehicle accident resulting in property damage, injury or death within 24 hours.

e. Travel off of designated roads, parking areas or launch sites.

f. Operation of any vehicle that does not meet State registration, licensing and safety requirements.

g. Operation of any vehicle without a valid State driver's license.

h. Operation of a motor vehicle while under the influence of alcohol, drugs or intoxicants, or any combination thereof.

i. Operation of a motor vehicle in violation of any State law.

7. Other Acts

a. Tree cutting or firewood gathering, including driftwood, dead/down wood.

b. Defacing, disturbing, or removing any natural feature or property of the United States.

c. Failing to possess a Deschutes River Boater Pass as required by Oregon State Parks and Recreation Division.

d. Failing to exhibit required permits or identification when requested by a BLM authorized officer or representative.

e. Selling or offering for sale any services or merchandise or conducting any kind of business enterprise on public lands without a BLM permit.

f. Threatening, resisting, intimidating or interfering with any BLM official, employee or volunteer engaged in, or on account of, the performance of their official duties.

g. Failure to restrain pets on a leash at all times in developed camping area.

h. Aircraft landing without authorization.

i. Possession of any fish or wildlife in violation of any State law or other regulation.

j. Operation of any motor-driven vessel in any area posted "closed" to such use or violation of any State Marine Board regulation.

The provisions of paragraphs 1a,d,e; 4; 6a, b,c,e; 7c,j, shall not apply to any Federal, State or local officer or member of any organized rescue or firefighting force in the performance of an official duty.

Violation of these prohibitions is punishable by a fine of not more than $500 or imprisonment for not more than 6 months or both. (Title 16 U.S.C. section 1281(c) and title 16 U.S.C. section 3.)

Exhibit A

The lands administered by the Bureau of Land Management to which this order applies are within the proposed administrative boundary of the National Wild and Scenic River. This boundary may be revised upon completion of the management planning process.

Legal description of proposed administrative boundary commencing at Pelton Reregulating Dam and extending downstream to the Columbia River:

T. 10 S., R. 12 E., W.M.

Section 1 (Regulator Dam):
Beginning at the centerline point of the east end of the Regulating Dam, thence northeasterly along the centerline of the existing road to the intersection of a road, thence northerly and easterly along the certerline of the existing road to the intersection of the north-south centerline of southeast ¼ of section 1, thence northerly to the center east ⅛ corner, thence easterly to the westerly right-of-way boundary line of highway 26, thence along said right-of-way boundary to the north line of section 1.

T. 9 S., R. 12 E., W.M.

Section 31:
Thence northeasterly along the northwest right-of-way boundary of highway 26 to the east-west centerline of the northwest ¼, thence easterly to the northeast ⅛ corner, thence northerly to the east ⅛ corner common to sections 30 and 31.

Section 30:
Thence northerly to the center east ⅛ corner, thence easterly to the ¼ corner common to sections 29 and 30.

Section 29:
Thence easterly to the center west ⅛ corner, thence northerly to the northwest ⅛ corner, thence easterly to the center north ⅛, thence to the ¼ corner common to sections 20 and 29.

Section 20:
Thence easterly to the east ⅛ corner common to sections 20 and 29 thence northerly to the center east ⅛ corner, thence easterly to the rimrock of the canyon, thence northeasterly along said rimrock to the line common to section 20 and 21.

Section 21:
Thence continuing northeasterly along said rimrock to the line common to sections 16 and 21.

Section 16:
Thence continuing northeasterly along said rimrock to the southeast ⅛ corner, thence easterly to the south ⅛ corner common to sections 16 and 15.

Section 15:
Thence easterly to the southwest ⅛ corner, thence northerly to the center west ⅛ corner, thence easterly to the ¼ corner common to sections 15 and 14.

Section 14:
Thence easterly to the ¼ corner common to sections 14 and 13.

Section 13:
Thence easterly to the center west ⅛ corner, thence northerly to the northwest ⅛ corner, thence easterly to the northeast ⅛ corner, thence northerly to the east ⅛ corner common to sections 13 and 12.

Section 12:
Thence easterly to the section corner common to sections 12 and 13, T. 9 S., R. 13 E., W.M. and sections 7 and 18, T. 9 S., R. 14 E., W.M.

T. 9 S., R. 14 E., W.M.

Section 7:
Thence northerly to the south ⅛ corner common to sections 7 and 12, thence easterly to the southwest ⅛ corner, thence northerly to the center west ⅛ corner, thence easterly to the center ¼ corner, thence northerly to the center north ⅛ corner, thence easterly to the north ⅛ corner common to sections 7 and 8, thence northerly to the corner common to sections, 5, 6, 7 and 8.

Section 5:
Thence northerly to the south ⅛ corner common to sections 5 and 8, thence easterly to the southwest ⅛ corner thence northerly to the center west ⅛ corner, thence easterly to the center ¼ corner, thence northerly to the ¼ corner common to section 5, T. 9 S., R. 14 E. and section 32, T. 8 S., R. 14 E., W.M.

T. 8 S., R. 14 E., W.M.

Section 32:
Thence northerly to the center south ⅛ corner, thence easterly to the southeast ⅛ corner, thence northerly to the east ⅛ corner common to sections 29 and 32.

Section 29:
Thence easterly to the section corner common to sections 28, 29, 32 and 33, thence northerly to the section corner common to sections 20, 21, 28 and 29.

Section 21:
Thence easterly to the east ⅛ corner common to sections 21 and 28, thence northerly to the center east ⅛ corner, thence easterly to the ¼ corner common to sections 21 and 22, thence northerly to the section corner common to sections 15, 16, 21 and 22.

Section 15:
Thence easterly to the west ⅛ corner common to sections 15 and 22, thence northerly to the west ⅛ corner common to sections 10 and 15.

Section 10:
Thence northerly to the northwest ⅛ corner, thence westerly to the north ⅛ corner common to sections 9

and 10.
Section 9:
Thence westerly to the northeast 1/16 corner, thence northerly to the east 1/16 corner common to sections 4 and 9.
Section 4:
Thence westerly to the 1/4 corner common to sections 4 and 9, thence northerly to the center north 1/16 corner, thence westerly to the northwest 1/16 corner, thence northerly to the west 1/16 corner common to section 4, T. 8 S., R. 14 E. and section 33, T. 7 S., R. 14 E., W.M., thence westerly to the section corner common to sections 4 and 5, T. 8 S., R. 14 E. and sections 32 and 33, T. 7 S., R. 14 E., W.M.

T. 7 S., R. 14 E., W.M.

Section 32:
Thence westerly along the section line common to sections 5 and 32 to the intersection with the west right-of-way boundary line of the Burlington-Northern railroad, thence northwesterly along the west right-of-way boundary line of said railroad to the intersection of the section line common to sections 29 and 32.
Section 29:
Thence easterly to the section corner common to sections 28, 29, 32 and 33, thence northerly to the 1/4 corner common to sections 28 and 29.
Section 28:
Thence easterly to the center west 1/16 corner, thence northerly to the west 1/16 corner common to sections 21 and 28.
Section 21:
Thence northerly to the west 1/16 corner common to sections 16 and 21, thence westerly to the section corner common to sections 16, 17, 20 and 21.
Section 17:
Thence northerly to the section corner common to sections 8, 9, 16 and 17.
Section 9:
Thence easterly to the 1/4 corner common to sections 9 and 16, thence northerly to the 1/4 corner common to sections 4 and 9.
Section 4:
Thence easterly to the east 1/16 corner common to sections 4 and 9, thence northerly to the center east 1/16 corner, thence easterly to the east 1/4 corner common to sections 3 and 4, thence northerly to the section corner common to sections 3 and 4, T. 7 S., R. 14 E. and sections 33 and 34 of T. 6 S., R. 14 E., W.M.

T. 6 S., R. 14 E., W.M.

Section 34:
Thence easterly to the west 1/16 corner common to section 3, T. 7 S., R. 14 E. and section 34, T. 6 S., R. 14 E., W.M., thence northerly to the west 1/16 corner common to sections 27 and 34, T. 6 S., R. 14 E., W.M.
Section 27:
Thence northwesterly to the section corner common to sections 21, 22, 27 and 28.
Section 21:
Thence northerly to the 1/4 corner common to sections 21 and 22, thence westerly to the center west 1/16 corner, thence northerly to the northwest 1/16 corner, thence westerly to the north 1/16 corner common to sections 20 and 21, thence northerly to the section corner common to sections 16, 17, 20 and 21.
Section 17:
Thence westerly to the west 1/16 corner common to sections 17 and 20, thence northerly to the center west 1/16 corner, thence westerly to the 1/4 corner common to sections 17 and 18.
Section 18:
Thence westerly to the west 1/4 corner of section 18, thence northerly to the west section corner common to sections 7 and 18.
Section 7:
Thence easterly to the west 1/16 corner common to sections 7 and 18, thence northerly to the northwest 1/16 corner, thence easterly to the center north 1/16 corner, thence northerly to the 1/4 corner common to sections 6 and 7, thence easterly to the east 1/16 corner common to sections 6 and 7.
Section 6:
Thence northerly to the northeast 1/16 corner, thence westerly to the north 1/16 corner on the west boundary of section 6, thence northerly to the corner common to section 1, T. 6 S., R. 13 E., section 6, T. 6 S., R. 14 E., section 31, T. 5 S., R. 14 E. and section 36, T. 5 S., R. 13 E., W.M.

T. 5 S., R. 13 E., W.M.

Section 36:
Thence westerly to the east 1/16 corner on the south section line of section 36, thence northerly to the east 1/16 corner common to sections 25 and 36, thence westerly to the 1/4 corner common to sections 25 and 36.
Section 25:
Thence northerly to the 1/4 corner common to sections 24 and 25.
Section 24:
Thence northerly to the center north 1/16 corner, thence easterly to the northeast 1/16 corner, thence northerly to the east 1/16 corner common to sections 13 and 24.
Section 13:
Thence northerly to the east 1/16 corner between sections 12 and 13, thence easterly to the east section corner common to sections 12 and 13, T. 5 S., R. 13 E. on the west line of section 7, T. 5 S., R. 14 E., W.M.

T. 5 S., R. 14 E., W.M.

Section 7:
Thence northerly to the south 1/16 corner on the west line of section 7, thence easterly to the southwest 1/16 corner, thence northerly to the center west 1/16 corner, thence easterly to the center 1/4 corner, thence northerly to the center north 1/16 corner, thence northeasterly to the east 1/16 corner common to sections 6 and 7.
Section 6:
Thence northeasterly to the south 1/16 corner common to sections 5 and 6.
Section 5:
Thence northeasterly to the center west 1/16 corner, thence northerly along the west boundary of the southeast 1/4 of the northwest 1/4 to the mean high waterline on the southeast bank of the Deschutes River, thence northeasterly along said mean high waterline to the section line common to section 32, T. 4 S., R. 14 E. and section 5, T. 5 S., R. 14 E., W.M.

T. 4 S., R. 14 E., W.M.

Section 32:
Thence continuing northeasterly along the mean high waterline on the southeasterly bank of the Deschutes River to intersection with the section line between sections 32 and 33.
Section 33:
Thence continuing northerly along the mean high waterline on the east bank of the Deschutes River to the intersection with the section line between sections 32 and 33, thence northerly to the section corner common to sections 28, 29, 32 and 33.
Section 29:
Thence northerly to the north 1/16 corner, between sections 28 and 29, thence westerly to the northeast 1/16 corner, thence northerly to the east 1/16 corner common to sections 20 and 29.
Section 30:
Thence northerly to the southeast 1/16 corner, thence northeasterly to the 1/4 corner common to sections 20 and 21.
Section 21:
Thence northeasterly to the northwest

1/16 corner, thence northerly to the west 1/16 corner common to sections 16 and 21.

Section 16:

Thence northerly to the center west 1/16 corner, thence westerly to the 1/4 corner between sections 16 and 17, thence northerly to the north 1/16 corner between sections 16 and 17, thence northeasterly to the west 1/16 corner between sections 9 and 16, thence easterly to the section corner common to sections 9, 10, 15 and 16.

Section 10:

Thence northeasterly to the southwest 1/16 corner, thence easterly to the southeast 1/16 corner, thence northerly to the east 1/16 corner common to sections 3 and 10, thence easterly to the section corner common to sections 2, 3, 10 and 11.

Section 3:

Thence northerly to the corner common to sections 2 and 3, T. 4 S., R. 14 E. and sections 34 and 35, T. 3 S., R. 14 E., W.M.

T. 3 S., R. 14 E., W.M.

Section 35:

Thence easterly to the 1/4 corner common to section 2, T. 4 S., R. 14 E. and section 35, T. 3 S., R. 14 E., W.M., thence northerly to the center south 1/16 corner, thence easterly to the south 1/16 corner common to sections 35 and 36, thence northerly to the section corner common to sections 25, 26, 35 and 36.

Section 26:

Thence northerly to the section corner common to sections 23, 24, 25 and 26.

Section 23:

Thence northerly to the section corner common to sections 13, 14, 23 and 24.

Section 14:

Thence northerly to the south 1/16 corner common to sections 13 and 14.

Section 13:

Thence easterly to the southwest 1/16 corner, thence southerly to the west 1/16 corner common to sections 13 and 24, thence easterly to the section corner common to sections 13 and 24, T. 3 S., R. 14 E. and sections 18 and 19, T. 3 S., R. 15 E., W.M.

T. 3 S., R. 15 E., W.M.

Section 18:

Thence easterly to the 1/4 corner common to sections 18 and 19, thence northerly to the 1/4 corner common to sections 7 and 18, thence easterly to 1/16 corner common to sections 7 and 18, thence southerly to the center east 1/16 corner, thence southeasterly to the south 1/16 corner common to sections 17 and 18.

Section 17:

Thence southeasterly to the west 1/16 corner common to sections 17 and 20, thence easterly to the section corner common to sections 16, 19, 20 and 21, thence northerly to the section corner common to sections 8, 9, 16 and 17.

Section 9:

Thence easterly to the 1/4 corner common to sections 9 and 16, thence northerly to the center 1/4 corner, thence northeasterly to the northeast 1/16 corner common to sections 9 and 10.

Section 10:

Thence northeasterly to the west 1/16 corner common to sections 3 and 10.

Section 3:

Thence northeasterly to the center south 1/16 corner, thence northerly to the 1/4 corner common to section 3, T. 3 S., R. 15 E. and section 34, T. 2 S., R. 15 E., W.M.

T. 2 S., R. 15 E., W.M.

Section 34:

Thence easterly to the east 1/16 corner common to section 3, T. 3 S., R. 15 E. and section 34, T. 2 S., R. 15 E., W.M., thence northerly to the northeast 1/16 corner, thence easterly to the north 1/16 corner common to sections 34 and 35.

Section 35:

Thence easterly to the north 1/16 corner common to sections 35 and 36, thence northerly to the section corner common to sections 25, 26, 35 and 36.

Section 26:

Thence northerly to the section corner common to sections 23, 24, 25 and 26.

Section 23:

Thence northerly to the south 1/16 corner common to sections 23 and 24.

Section 24:

Thence northeasterly to the center 1/4 corner, thence easterly to the east 1/4 corner of section 24.

T. 2 S., R. 16 E., W.M.

Section 19:

Thence southerly to the west 1/4 corner of section 19, thence easterly to the center 1/4 corner, thence northerly to the 1/4 corner common to sections 12 and 19.

Section 12:

Thence northerly to the 1/4 corner common to sections 7 and 12.

Section 7:

Thence northerly to the 1/4 corner common to sections 6 and 7.

Section 6:

Thence northeasterly to the center east 1/16 corner, thence easterly to the 1/4 corner common to sections 5 and 6.

Section 5:

Thence northeasterly to the 1/4 corner common to section 5, T. 2 S., R. 16 E. and section 32, T. 1 S., R. 16 E., W.M.

T. 1 S., R. 16 E., W.M.

Section 32:

Thence northeasterly to the 1/4 corner common to sections 31 and 32.

Section 31:

Thence westerly to the center east 1/16 corner, thence northerly to the east 1/16 corner common to sections 30 and 31.

Section 30:

Thence northerly to the northeast 1/16 corner, thence easterly to the north 1/16 corner common to sections 29 and 30.

Section 29:

Thence easterly to the northwest 1/16 corner, thence northerly to the west 1/16 corner common to sections 20 and 29.

Section 20:

Thence easterly to the 1/4 corner common to sections 20 and 29, thence northeasterly to the 1/4 corner common to sections 20 and 21, thence northerly to the section corner common to sections 16, 17, 20 and 21.

Section 17:

Thence northerly to the south 1/16 corner common to section 16 and 17, thence westerly to the southeast 1/16 corner, thence northerly to the northeast 1/16 corner, thence easterly to north 1/16 corner common to sections 16 and 17, thence northerly to the section corner common to sections 8, 9, 16 and 17.

Section 8:

Thence northerly to the section corner common to sections 4, 5, 8 and 9.

Section 4:

Thence easterly to the west 1/16 corner common to sections 4 and 9, thence northerly to the southwest 1/16 corner, thence easterly to the center south 1/16 corner, thence northerly to the north 1/4 corner, section 4, T. 1 S., R. 16 E., W.M., thence easterly to the section corner common to sections 4 and 5, T. 1 S., R. 16 E., W.M.

Section 5:

Thence westerly to the section corner common to section 32 and 33, T. 1 N, R. 16 E., W.M.

T. 1 N., R. 16 E., W.M.

Section 32:
Thence westerly to the east ⅛ corner on the south line of section 32, thence northerly to the southeast ⅛ corner, thence westerly to the southwest ⅛ corner, thence northerly to the center west ⅛ corner, thence westerly to the ¼ corner common to sections 31 and 32.

Section 31:
Thence northerly to the section corner common to sections 29, 30, 31 and 32, thence westerly to the section corner common to sections 30 and 31, T. 1 N., R. 16 E. and sections 25 and 36, T. 1 N., R. 15 E., W.M.

T. 1 N., R. 15 E., W.M.

Section 25:
Thence westerly to the east ⅛ corner common to sections 25 and 36, thence northerly to the northeast ⅛ corner, thence westerly to the northwest ⅛ corner, thence northerly to the west ⅛ corner common to sections 24 and 25.

Section 24:
Thence northerly to the southwest ⅛ corner, thence westerly to the south ⅛ corner common to sections 23 and 24.

Section 23:
Thence northerly to the section corner common to sections 13, 14, 23 and 24.

Section 14:
Thence northerly to the section corner common to sections 11, 12, 13 and 14.

Section 11:
Thence northerly to the westerly boundary of the old Deschutes railroad right-of-way, thence northerly along said right-of-way boundary to a point on the south boundary of the northwest ¼ of section 12, thence easterly to the center ¼ corner, thence northerly to the ¼ corner common to sections 1 and 12, thence westerly to the west ⅛ corner common to sections 1 and 12.

Section 1:
Thence northwesterly to the north ⅛ corner common to sections 1 and 2.

Section 2:
Thence westerly to the northeast ⅛ corner, thence northerly to the east ⅛ corner common to section 2, T. 1 N., R. 15 E. and section 35, T. 2 N., R. 15 E., W.M.

T. 2 N., R. 15 E., W.M.

Section 35:
Thence northerly to the east ⅛ corner common to sections 35 and 26.

Section 26:
Thence northerly to the center east ⅛ corner, thence easterly to the west right-of-way boundary of the Old Deschutes railroad, thence northerly along the west boundary of the old railroad right-of-way to where it intersects the west boundary of lot 1, thence northerly to the intersection of the south boundary of the right-of-way for highway 206, thence westerly along said highway right-of-way boundary to the intersection with the section line common to sections 26 and 27, thence southerly to the southwest corner of lot 7, thence easterly to the northwest corner of lot 6, thence southerly to the west ⅛ corner common to sections 26 and 35.

Section 35:
Thence southerly to the center west ⅛ corner, thence westerly to the ¼ corner common to sections 34 and 35, thence southerly to the section corner common to sections 34 and 35, T. 2 N., R. 15 E. and sections 2 and 3, T. 1 N., R. 15 E., W.M.

T. 1 N., R. 15 E., W.M.

Section 2:
Thence southerly to the ¼ corner common to sections 2 and 3, thence easterly to the center ¼ corner, thence southerly to the center south ⅛ corner, thence easterly to the southeast ⅛ corner, thence southerly to the east ⅛ corner common to sections 2 and 11.

Section 11:
Thence southerly to the center east ⅛ corner, thence easterly to the center ¼ corner, thence southerly to the ¼ corner common to sections 11 and 14.

Section 14:
Thence westerly to the west ⅛ corner common to sections 11 and 14, thence southerly to the west ⅛ corner common to sections 14 and 23.

Section 23:
Thence southerly to the center west ⅛ corner, thence easterly to the center ¼ corner, thence southerly to the ¼ corner common to sections 23 and 26

Section 26:
Thence southerly to the center ¼ corner, thence easterly to the ¼ corner common to sections 25 and 26.

Section 25:
Thence easterly to the intersection with the east right-of-way boundary of the electric transmission line, thence southerly along said right-of-way boundary to the intersection of the section line common to sections 25 and 36.

Section 36:
Thence southerly along said right-of-way boundary to the intersection with the north line of the southeast ¼ of the southeast ¼, thence easterly to the south ⅛ corner common to section 36, T 1 N., R 15 E. and section 31, T. 1 N., R. 16 E., W.M.

T. 1 N., R. 16 E. W.M.

Section 31:
Thence easterly to the center south ⅛ corner, thence southerly to the south ¼ corner section 31.

T. 1 S., R. 16 E., W.M.

Section 6:
Thence southeasterly to the northeast ⅛ corner, thence easterly to the north ⅛ corner common to sections 5 and 6.

Section 5:
Thence southeasterly to the center ¼ corner, thence southerly to the south ⅛ corner, thence westerly to the southwest ⅛ corner, thence southerly to the west ⅛ corner common to sections 6 and 8.

Section 8:
Thence southerly to the west ⅛ corner comont to sections 8 and 17.

Section 17:
Thence southerly to the west ⅛ corner common to sections 17 and 20.

Section 20:
Thence southwesterly to the north ⅛ corner common to sections 19 and 20, thence southerly to the south ⅛ corner common to sections 19 and 20.

Section 19:
Thence westerly to the southwest ⅛ corner, thence southerly to the west ⅛ corner common to sections 19 and 30.

Section 30:
Thence easterly to the section corner common to sections 19 and 30, thence southerly to the section corner common to sections 30 and 31.

Section 31:
Thence southerly to the west ¼ corner of section 31, thence southeasterly to the southwest ⅛ corner, thence southerly to the west ⅛ corner common to section 31, T. 1 S., R. 16 E. and section 6, T. 2 S., R. 16 E., W.M.

T. 2 S., R. 16 E., W.M.

Section 6:
Thence southwesterly to the north ⅛ corner on the west side of section 6,

thence southerly to the section corner common to sections 6 and 7, T. 2 S., R. 16 E. and sections 1 and 12, T. 2 S., R. 15 E., W.M.

Section 7:
Thence southerly to the section corner common to sections 7 and 18, T. 2 S., R. 16 E. and sections 12 and 13, T. 2 S., R. 15 E., W.M.

Section 18:
Thence southerly to the ¼ corner common to section 18, T. 2 S., R. 16 E. and section 13, T. 2 S., R. 15 E., W.M.

T. 2 S., R. 15 E., W.M.

Section 13:
Thence westerly to the ¼ corner common to sections 13 and 14, thence southerly to the section corner common to sections 13, 14, 23 and 24, thence southwesterly to the center south ⅛ corner, thence westerly to the southwest ⅛ corner, thence southerly to the west ⅛ corner common to sections 23 and 26.

Section 26:
Thence southerly to the center west ⅛ corner, thence westerly to the ¼ corner common to sections 26 and 27, thence westerly to the ¼ corner common to sections 27 and 28, thence southerly to the section corner common to sections 27, 28, 33 and 34.

Section 33:
Thence southwesterly to the section corner common to sections 32 and 33, T. 2 S., R. 15 E. and sections 4 and 5, T. 3 S., R. 15 E., W.M.

T. 3 S., R. 15 E., W.M.

Section 4:
Thence southerly to the northwest ⅛ corner common to sections 4 and 5.

Section 5:
Thence westerly to the center ⅛ corner, thence southerly to the ¼ corner common to sections 5 and 8, thence easterly to the section corner common to sections 4, 5, 8 and 9.

Section 9:
Thence southerly to the ¼ corner common to sections 8 and 9.

Section 8:
Thence southwesterly to the ¼ corner to sections 8 and 17, thence westerly to the west ⅛ corner common to sections 8 and 17, thence northwesterly to the north ⅛ corner common to sections 7 and 8, thence northerly to the section corner common to sections 5, 6, 7 and 8.

Section 7:
Thence westerly to the ¼ corner common to sections 6 and 7, thence southerly to the center north ⅛ corner, Thence westerly to the north ⅛ corner common to section 7, T 3 S., R. 15 E. and section 12 T. 3 S., R. 14 E., W.M., thence southerly to the section corner common to sections 7 and 18, T. 3 S., R. 15 E. and sections 12 and 13, T. 3 S., R. 14 E., W.M.

Section 18:
Thence southerly to the north ⅛ corner common to section 18, T. 3 S., R. 15 E. and section 13, T. 3 S., R. 14 E., W.M.

T. 3 S., 14 E., W.M.

Section 13:
Thence westerly to the north ⅛ corner common to sections 13 and 14.

Section 14:
Thence westerly to the center north ⅛ corner, thence southerly to the ¼ corner common to sections 14 and 23.

Section 23:
Thence westerly to the west ⅛ corner common to sections 14 and 23, thence southerly to the center west ⅛ corner, thence westerly to the ¼ corner of sections 22 and 23, thence southerly to the section corner common to sections 22, 23, 26 and 27.

Section 26:
Thence southerly to the ¼ corner common to sections 26 and 27, thence easterly to the center west ⅛ corner, thence southerly to the west ⅛ corner common to sections 26 and 35.

Section 35:
Thence southeasterly to the center north ⅛ corner, thence southerly to the center ¼ corner, thence easterly to the intersection with the east side of the Burlington Northern right-of-way boundary, thence southwesterly along said right-of-way boundary to the intersection of the section line between sections 34 and 35.

Section 34:
Thence southwesterly on said right-of-way boundary to the intersection of the section line between section 34, T. 3 S., R. 14 E. and section 3, T. 4 S., R. 14 E., W.M.

T. 4 S., R. 14 E., W.M.

Section 3:
Thence southwesterly along said right-of-way boundary to the intersection with the north line of the southeast ¼ of the southwest of section 3, thence westerly to the south ⅛ corner common to sections 3 and 4, thence southerly to the section corner common to sections 3, 4, 9 and 10.

Section 10:
Thence southerly to the north ⅛ corner common to sections 9 and 10.

Section 9:
Thence easterly to the center north ⅛ corner, thence southerly to the center south ⅛ corner, thence westerly to the south ⅛ corner common to sections 8 and 9.

Section 8:
Thence westerly to the southeast ⅛ corner, thence southerly to the east ⅛ corner common to sections 8 and 17.

Section 17:
Thence westerly to the ¼ corner common to sections 8 and 17, thence southerly to the center north ⅛ corner, thence easterly to the east boundary of the Burlington Northern railroad right-of-way, thence southerly along said right-of-way boundary to the east boundary of the northeast ¼ of the southeast ¼, thence southerly to the east ⅛ corner common to sections 17 and 20.

Section 20:
Thence southerly to the northeast ⅛ corner, thence westerly to the center north ⅛ corner, thence southerly to the ¼ corner common to sections 20 and 29.

Section 29:
Thence westerly to the west ⅛ corner common to sections 20 and 29, thence southerly to the center west ⅛ corner, thence easterly to the center ¼ corner, thence southerly to the ¼ corner common to sections 29 and 32.

Section 32:
Thence southerly to the center north ⅛ corner, thence westerly to the mean high waterline on the west bank of the Deschutes River, thence southerly along said high waterline to the intersection of the section line common to section 32, T. 4 S., R. 14 E., and section 5, T. 5 S., R. 14 E., W.M.

T. 5 S., R. 14 E., W.M.

Section 5:
Thence southerly along said mean high waterline to intersection with the south boundary of lot 3, thence westerly to the top of the canyon rim, thence southwesterly to the intersection of the section line between sections 5 and 6.

Section 6:
Thence southwesterly to the center east ⅛ corner, thence southwesterly to the west ⅛ corner common to sections 6 and 7.

Section 7:
Thence southerly to the northwest ⅛ corner, thence westerly to the north

1/16 corner common to section 7, T. 5 S., R. 14 E. and section 12, T. 5 S., R. 13 E., W.M.

T. 5 S., R. 13 E., W.M.

Section 12:
Thence southwesterly to the center west 1/16 corner, thence southerly to southwest 1/16 corner, thence westerly to the south 1/16 corner common to sections 12 and 13, thence southerly to the section corner common to sections 11 and 12.
Section 13:
Thence easterly to the west 1/16 corner on the north boundary of section 13, thence southerly to the southwest 1/16 corner, thence southwesterly to the section corner common to sections 13, 14, 23 and 24.
Section 24:
Thence southerly to the section corner common to sections 23, 24, 25 and 26.
Section 25:
Thence southerly to the section corner common to sections 25, 26, 35 and 36.
Section 36:
Thence southerly to the south 1/16 corner common to sections 35 and 36, thence easterly to the southwest 1/16 corner, thence southerly to the west 1/16 corner common to section 36, T. 5 S., R. 13 E. and section 1, T. 6 S., R. 13 E., W.M.

T. 6 S., R. 13 E., W.M.

Section 1:
Thence southerly to northwest 1/16 corner, thence easterly to the center north 1/16 corner, thence southerly to the center south 1/16 corner, thence westerly to the south 1/16 corner common to section 1, T. 6 S., R. 13 E. and section 6, T. 6 S., R. 14 E., W.M., thence southerly to the section corner common to sections 1 and 12, T. 6 S., R. 13 E. and sections 6 and 7, T. 6 S., R. 14 E., W.M.
Section 12:
Thence westerly to the 1/4 corner common to sections 1 and 12, thence southerly to the 1/4 corner common to sections 12 and 13.
Section 13:
Thence southerly to the 1/4 corner common to sections 13 and 24.
Section 24:
Thence southeasterly to the east 1/4 corner of section 24, thence southerly to the south 1/16 corner of the west section line of section 19, T. 6 S., R. 14 E., W.M.

T. 6 S., R. 14 E., W.M.

Section 19:
Thence easterly to the south 1/16 corner common to sections 19 and 20.
Section 20:
Thence easterly to the south 1/16 corner common to sections 20 and 21, thence southerly to the section corner common to sections 20, 21, 28 and 29.
Section 28:
Thence easterly to the west 1/16 corner common to sections 21 and 28, thence southerly to the west 1/16 corner common to sections 28 and 33.
Section 33:
Thence southeasterly to the 1/4 corner common to section 33, T. 6 S., R. 14 E. and section 4, T. 7 S., R. 14 E., W.M.

T. 7 S., R. 14 E., W.M.

Section 4:
Thence southerly to the center south 1/16 corner, thence westerly to the southwest 1/16 corner, thence southerly to west 1/16 corner common to sections 4 and 9.
Section 9:
Thence southerly to the center west 1/16 corner, thence westerly to the 1/4 corner common to sections 8 and 9.
Section 8:
Thence westerly to the center 1/4 corner, thence southerly to the center south 1/16 corner, thence westerly to the southwest 1/16 corner, thence southerly to the west 1/16 corner common to sections 8 and 17.
Section 17:
Thence southerly to the west 1/16 corner common to sections 17 and 20:
Section 20:
Thence southerly to the northwest 1/16 corner, thence easterly to the center north 1/16 corner, thence southerly to 1/4 corner common to sections 20 and 29.
Section 29:
Thence southerly to the center 1/4 corner, thence westerly to the center west 1/16 corner, thence southerly to the west 1/16 corner common to sections 29 and 32.
Section 32:
Thence southerly to the west 1/16 corner on the south line of section 32.

T. 8 S., R. 14 E., W.M.

Section 5:
Thence easterly to the north 1/4 corner of section 5, thence southerly to the center north 1/16 corner, thence easterly to the northeast 1/16 corner, thence southerly to the center east 1/16 corner, thence easterly to the 1/4 corner common to sections 4 and 5.
Section 4:
Thence southerly to the section corner common to sections 4, 5, 8 and 9, thence easterly to the west 1/16 corner common to sections 4 and 9.
Section 9:
Thence southerly to the center west 1/16 corner, thence easterly to the center 1/4 corner, thence southerly to the center south 1/16 corner, thence easterly to the southeast 1/16 corner, thence southerly to the east 1/16 corner common to sections 9 and 16.
Section 16:
Thence southerly to the northeast 1/16 corner, thence easterly to the north 1/16 corner common to sections 15 and 16, thence southerly to the 1/4 corner common to sections 15 and 16, thence westerly to the center east 1/16 corner, thence southerly to the southeast 1/16 corner, thence westerly to the center south 1/16 corner, thence southerly to the 1/4 corner common to sections 16 and 21.
Section 21:
Thence southerly to the center 1/4 corner, thence westerly to the 1/4 corner common to section 20 and 21.
Section 20:
Thence westerly to the center east 1/16 corner, thence southerly to the southeast 1/16 corner, thence westerly to the center south 1/16 corner, thence southerly to the 1/4 corner common to sections 20 and 29.
Section 29:
Thence southerly to the 1/4 corner common to sections 29 and 32.
Section 32:
Thence southerly to the center 1/4 corner, thence westerly to the center west 1/16 corner, thence southerly to the southwest 1/16 corner, thence westerly to the south 1/16 corner common to sections 31 and 32, thence southerly to the section corner common to sections 31 and 32, T. 8 S., R. 14 E. and sections 5 and 6, T. 9 S., R. 14 E., W.M.

T. 9 S., R. 14 E., W.M.

Section 6:
Thence southerly to the 1/4 corner common to sections 5 and 6, thence westerly to the center east 1/16 corner, thence southerly to the east 1/16 common to sections 6 and 7, thence westerly to the section corner common to sections 6 and 7, T. 9 S., R. 14 E. and sections 1 and 12, T. 9 S., R. 13 E., W.M.

T. 9 S., R. 13 E., W.M.

Section 12:

Thence westerly to the east ⅛ corner common to sections 1 and 12, thence southerly to the northeast ⅛ corner, thence westerly to the center north ⅛ corner, thence southerly to the center south ⅛ corner, thence westerly to the south ⅛ corner common to sections 11 and 12.

Section 11:

Thence southerly to the section corner common to sections 11, 12, 13 and 14, thence westerly to the section corner common to sections 10, 11, 14, 14 and 15.

Section 15:

Thence westerly to the section corner common to sections 9, 10, 15 and 16.

Section 16:

Thence southerly to the north ⅛ corner common to sections 15 and 16, thence westerly to the center north ⅛ corner, thence southerly to the center ¼ corner, thence westerly to the ¼ corner common to sections 16 and 17.

Section 17:

Thence westerly to the center east ⅛ corner, thence southerly to the east ⅛ corner common to sections 17 and 20, thence westerly the west ⅛ corner common to sections 17 and 20.

Section 20:

Thence southerly to the west ⅛ corner common to sections 20 and 29, thence westerly to the section corner common to sections 19, 20, 29 and 30.

Section 30:

Thence southerly to the mean high waterline on the north bank of the Deschutes River, thence westerly and southerly along said mean high waterline to a point on the north boundary of the northeast ¼, southwest ¼ of section 30, thence westerly to the center west ⅛ corner, thence southerly to the west ⅛ corner common to sections 30 and 31.

Section 31:

Thence southerly to the center west ⅛ corner, thence southerly to the point of intersection with the south right-of-way boundary of the existing road, thence southwesterly along said right-of-way boundary to the intersection with the section line between section 31, T. 9 S., R. 13 E. and section 36, T. 9 S., R. 12 E., W.M.

T. 9 S., R. 12 E., W.M.

Section 36:

Thence continuing southwesterly along south right-of-way boundary of said road to the intersection with the section line between section 36, T. 9 S., R. 12 E. and section 1, T. 10 S., R. 12 E., W.M.

T. 10 S., R. 12 E., W.M.

Section 1:

Thence easterly to the mean high waterline on the west bank of the Deschutes River, thence southerly along said mean high waterline to the Reregulating Dam, thence easterly across the Reregulating Dam to the Point of Beginning.

FOR FURTHER INFORMATION CONTACT: James L. Hancock, District Manager, BLM Prineville District Office, P.O. Box 550, Prineville, Oregon 97754, (Telephone: 503–447–4115).

Harry R. Cosgriffe,

Acting District Manager.

[FR Doc. 90–12757 Filed 6–1–90; 8:45 am]

BILLING CODE 4310–33–M

[OR–342–00–4730–12: GPO–254]

Filing of Plats of Survey; Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 25 S., R. 3 W., accepted 4/27/90
T. 21 S., R. 6 W., accepted 5/4/90
T. 16 S., R. 4 E., accepted 5/4/90

Washington

T. 33 N., R. 15 W., accepted 5/11/90 (sheets 1 and 2)

If protests against a survey, as shown on any of the above plats, are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plats will be placed in the open files of the Oregon State Office, Bureau of Land Management, 825 NE. Multnomah, Portland, Oregon 97208, and will be available to the public as a matter of information only. Copies of the plats may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 24, 1990.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 90–12786 Filed 6–1–90; 8:45 am]

BILLING CODE 4310–33–M

[AZ–931–00–4214–10; AZA–23873]

Proposed Withdrawal and Opportunity for Public Meeting; Arizona

May 23, 1990.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to withdraw approximately 11,400 acres of public land in La Paz County to protect the recreational values at La Posa Long-Term Visitor Area (LTVA), an established special recreation area. This notice closes the land for up to 2 years from entry, appropriation, or disposal under the land laws, including the mining laws. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by September 4, 1990.

ADDRESSES: Comments and meeting requests should be sent to the Arizona State Director, BLM, 3707 North Seventh Street, P.O. Box 16563, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, 602–640–5509.

SUPPLEMENTARY INFORMATION: On April 30, 1990, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights:

Gila and Salt River Meridian, Arizona

T. 3 N., R. 19 W.,

Sec. 1, lots 1–4, S½N½, and S½,
Sec. 2, lots 1–4, S½N½, and S½,
Sec. 3, lots 1–4, S½N½, and S½,
Sec. 4, lots 1–4, S½N½, and S½,
Sec. 9,
Sec. 10,
Sec. 11,
Sec. 12,
Sec. 14,
Sec. 15,
Sec. 16, E½, NW¼, N½SW¼, SE¼SW¼, and por. SW¼SW¼,
Sec. 21, por. E½ and por. NW¼,
Sec. 22, E½, por. SW¼; and SE¼,
Sec. 23,
T. 4 N., R. 19 W.,
Sec. 26, S½,
Sec. 27, E½SW¼, SW¼SW¼, and SE¼,
Sec. 28, S½SE¼,
Sec. 33,
Sec. 34,
Sec. 35,
Sec. 36, por. NW¼ and por. S½.

The area described contains 11,400 acres, more or less, in La Paz County.

The purpose of the withdrawal is to establish and protect a specific area where visitors are allowed to stay ("camp") for extended periods of time (up to seven months as specified). The withdrawal is intended to allow for the management of "camping" that is currently taking place on the public lands in the vicinity of Quartzite, Arizona (La Posa Long-Term Visitor Area).

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations as set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

The temporary uses which may be permitted during this segregative period are leases, permits, rights-of-way, cooperative agreements, or other types of discretionary uses.

Beaumont C. McClure,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 90–12770 Filed 6–1–90; 8:45 am]

BILLING CODE 4310-32-M

[ID–943–90–4214–11; IDI–14911]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Department of Agriculture, proposes that a withdrawal of 45.00 acres for the Brownlee Administrative Site in the Payette National Forest be continued for 30 years. The name of the site is changed from the Brownlee Ranger Station Addition to the Brownlee Administrative Site. The land is now being used for an administrative site. The land would remain closed to surface entry and mining, but has been and would remain open to mineral leasing.

DATES: Comments should be received on or before September 4, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1720.

The U.S. Forest Service proposes that the existing land withdrawal made by Secretarial Order dated November 21, 1906, be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 16 N., R. 4 W.,
Sec. 9, W½NW¼NE¼SW¼ and NW¼ SW¼.

The area described contains 45.00 acres in Washington County.

The withdrawal is essential for protection of substantial capital improvements on the administrative site. The withdrawal closed the land to surface entry and mining, but not to mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: May 23, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90–12762 Filed 6–1–90; 8:45 am]

BILLING CODE 4310-GG-M

[ID–943–90–4214–11; IDI–07977]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U. S. Forest Service, Department of Agriculture, proposes that a withdrawal of 10.00 acres in the Payette National Forest for the Buckhorn Bar Recreation Area continue for an additional 30 years. The name of the site is being changed from the Buckhorn Bar Public Service Site to the Buckhorn Bar Recreation Area. The land is being used for a recreation site. The land would remain closed to surface entry and mining, but has been and would remain open to mineral leasing.

DATES: Comments should be received on or before September 4, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1720.

The U. S. Forest Service proposes that the existing land withdrawal made by Public Land Order No. 5258 be continued for a period of 30 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

Buckhorn Bar Recreation Area (formerly Buckhorn Bar Public Service Site) (to be consolidated into one site with the Buckhorn Bar Recreation Area which was withdrawn under PLO 1374. The consolidated site will be known as the Buckhorn Bar Recreation Area).

T. 19 N., R. 6 E.,

Sec. 33, SW¼SW¼SW¼.

The area described contains 10.00 acres in Valley County.

The withdrawal is essential for protection of capital improvements on the recreation site. The withdrawal closed the land to surface entry and mining but not to mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized office of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and of so, for how long. The final determination of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: May 23, 1990.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 90-12763 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-GG-M

[NV-930-00-4212-14; N-53110]

Realty Action; Non-Competitive Sale of Public Lands in Clark County, NV

The following described public land in the City of North Las Vegas, Clark County, Nevada has been determined to be suitable for sale utilizing non-competitive procedures, at not less than the fair market value. Authority for the sale is section 203 of Public Law 94-579, the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will not be offered for sale until at least 60 days after the date of segregation established through publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 19 S., R. 61 E.,
Sec. 13, N½, NE¼SW¼, SE¼;
Sec. 14, N½;
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18;
Sec. 19, Lots 1, 2, 3, E½, E½NW¼, NE¼ SW¼;
Sec. 20;
Sec. 21, N½;
Sec. 23, N½NE¼, SW¼NE¼, E½NW¼;
Sec. 24, N½, NE¼SW¼, N½SE¼, SW¼ SE¼.
T. 19 S., R. 62 E.,
Sec. 18;
Sec. 19;
Sec. 20.

Aggregating 7488.53 acres (gross)

This parcel of land, situated in Clark County is being offered as a direct sale to the City of North Las Vegas.

This land is not required for any federal purposes. The sale is consistent with the Bureau's planning system. The sale of this parcel would be in the public interest.

In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 non-returnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 stat. 391, 43 U.S.C. 945.

2. Oil, gas, sodium, potassium and saleable minerals, and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County/ the City of North Las Vegas.

2. Those rights for railroad purposes which have been granted to the Los Angeles and Salt Lake Railroad Company by Permit No. CC-0360 under the Act of March 3, 1875, 18 stat. 482, 43 U.S.C. 934-939.

3. Those rights for road purposes which have been granted to the Corps of Engineers by Permit No. Nev-045137 under the Act of January 13, 1916, 44 LD 513.

4. Those rights for power line purposes which have been granted to Nevada Power Company by Permit No. Nev-061985 and Nev-067348 under the Act of February 15, 1901, 31 stat. 790, 43 U.S.C. 959.

5. Those rights for material site and road purposes which have been granted to the Nevada Department of Transportation by Permit No. N-32236 under the Act of August 27, 1958, 72 stat. 916, 23 U.S.C. 317(A).

6. Those rights for power line purposes which have been granted to Nevada Power Company by Permit No. N-39815, N-42592 and N-49722 under the Act of October 21, 1976, 90 stat. 2776, 43 U.S.C. 1761.

Publication of this notice in the Federal Register shall establish July 9, 1990, as the date the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws. This segregation will terminate upon issuance of a patent of 270 days from the date of segregation, whichever occurs first.

The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Public Law 94-579, or other applicable laws.

Dated: May 21, 1990.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 90-12759 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-HC-M

[CO-942-90-4730-12]

Colorado; Filing of Plats of Survey

May 17, 1990.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., May 17, 1990.

This plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, and the subdivision of sections 34 and 35, T. 11 S., R. 80 W., Sixth Principal Meridian, Colorado, Group No. 873, was accepted May 8, 1990.

This survey was executed to meet certain administrative needs of this Bureau.

This plat representing the dependent resurvey of portions of the subdivisional lines and private land claims in section 32, T. 35 N., R. 9 W., New Mexico Principal Meridian, Colorado, Group No. 931, was accepted May 8, 1990.

This plat representing the dependent resurvey of a portion of the south boundary and subdivisional lines, and a metes-and-bounds survey in sections 34, 35, and 36, T. 35 N., R. 10 W., New Mexico Principal Meridian, Colorado, Group No. 931, was accepted May 8, 1990.

This plat (in 4 sheets) representing the dependent resurvey of portions of the north boundary of the Southern Ute Indian Reservation (south boundary of the Ute Ceded Lands) through Tps. 34

N., Rs. 10 and 11 W., the west boundary, and subdivisional lines, a metes-and-bounds survey in sections 3 and 4, and the subdivision of sections 5 and 7, T. 34 N., R. 10 W. (North of the Ute Line), New Mexico Principal Meridian, Colorado, Group No. 931, was accepted May 8, 1990.

This plat representing the dependent resurvey of portions of the south and north boundaries, subdivisional lines, and a portion of a private land claim in section 32, and a metes-and-bounds survey in section 32, Fractional T. 34½ N., R. 9 W., New Mexico Principal Meridian, Colorado, Group No. 931, was accepted May 8, 1990.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 90-12758 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-JB-M

[ES-030-00-4212-14; WIES 042149]

Realty Action; Sale of Public Land in Vilas County, WI

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public lands in Vilas County, Wisconsin—(WIES 042149 in town of Winchester)—direct sale.

SUMMARY: The following public land has been examined and determined to be suitable for sale under section 203(a)(1) of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown below:

Fourth Principal Meridian, Wisconsin

WIES-042149

T.43N., R.5E., sec. 4, lot 10, lot 26 (0.49 acres)

Town of Winchester

Appraised Fair Market Value—$3,300

The land described is hereby segregated from appropriation under the public land laws, including mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

The above described land (WIES-042149) is being offered by direct sale (sealed bid envelope). The lands are being sold to Franklin R. Plano. The Patent will be subject to valid existing rights.

For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Milwaukee District, P.O. Box 631, Milwaukee, Wisconsin 53201-0613. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this sale is available at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, suite 225, Milwaukee, Wisconsin 53203; or by calling Paulette Francis at 414-297-4416.

Chris Hanson,

Acting District Manager.

[FR Doc. 90-12849 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-GJ-M

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor; Meeting

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission; Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATES: June 20, 1990.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESSES: Bethlehem City Library, 10 East Church St., Bethlehem, PA.

FOR FURTHER INFORMATION CONTACT: Deirdre Gibson, Division of Park and Resource Planning, Mid-Atlantic Regional Office, National Park Service, 260 Custom House, 200 Chestnut Street, Philadelphia, PA 19106, 215-597-6486.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 100-692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting involves discussion of the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The statement should be addressed to National Park Service, Mid-Atlantic Regional Office, Division of Park and Resource Planning, 260 Custom House, 200 Chestnut Street, Philadelphia, PA, 19106, attention: Deirdre Gibson.

Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

Charles P. Clapper, Jr.,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 90-12832 Filed 6-1-90; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, room 1100B, SA-14, Washington, DC 20523-1407.

Date Submitted: May 23, 1990.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0517.

Form Number: None.

Type of Submission: Renewal.

Title: A.I.D. Regulation 10—Donation of Dairy Products to Assist Needy Persons Overseas (Section 416 Program).

Purpose: Under section 416 of the Agricultural Act of 1949, as amended, A.I.D. is to carry out the responsibilities for selecting, approving, administering and implementing the temporary program of the donation of surplus dairy products. The section 416 program will be carried out through public, nonprofit, private, humanitarian organizations such as U.S. nonprofit voluntary agencies, cooperatives or intergovernmental organizations and foreign governments, known as cooperative sponsors. The cooperating sponsor wishing to participate in a section 416(b) program must submit to A.I.D. a progress report every six months and final report upon completion of the program. This report to include information on the distribution of the

commodities involved, management of the program and program accomplishments.

Reviewer: Marshall Mills (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: May 23, 1990.

Janet L. D. Vogel,

Planning and Evaluation Division.

FR Doc. 90–12828 Filed 6–1–90; 8:45 am]

BILLING CODE 6116–01–M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law, 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703)–875–1608, IRM/PE, room 1100B, SA–14, Washington, DC 20523–1407.

Date Submitted: May 24, 1990.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0518.

Type of Submission: Revision.

Title: Matching Grant Schedule.

Purpose: Foreign Assistance legislation encourages A.I.D. to channel significant portions of economic development aid to developing countries through private voluntary agencies (PVOs). Through a competitive selection process, applications for funding of PVOs' international development programs on a cost-shared basis are considered each year. The Matching Grant Schedule invites interested PVOs to apply and provides the schedule for applications for the next selection cycle. Guidelines which state the selection criteria and format for grant applications are attached to the invitation.

Reviewer: Marshall Mills (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Date: May 24, 1990.

Janet L.D. Vogel,

Planning and Evaluation Division.

[FR Doc. 90–12829 Filed 6–1–90; 8:45 am]

BILLING CODE 6116–01–M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, room 1100B, SA–14, Washington, DC 20523.

Date Submitted: May 23, 1990.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0007.

Form Number: None.

Type of Submission: Renewal.

Title: Report of Loss, Damage or Misuse of Commodities Donated Under PL 480, Title II Activities.

Purpose: U.S. non-profit voluntary agencies and foreign governments receiving U.S. donated Title II commodities for use in programs overseas (worldwide) to alleviate hunger and malnutrition are required under AID Regulation 11 to account for these commodities and provide reports that they are being used for purposes set forth in the legislation. Therefore, a report must be provided of all commodity losses due to theft, damage and misuses by cooperating sponsors implementing the program to the U.S. Government.

Reviewer: Marshall Mills (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: May 23, 1990.

Janet L.D. Vogel,

Planning and Evaluation Division.

[FR Doc. 90–12830 Filed 6–1–90; 8:45 am]

BILLING CODE 6116–01–M

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875–1608, IRM/PE, Room 1100B, SA–14, Washington, DC 20523.

Date Submitted: May 23, 1990.

Submitting Agency: Agency for International Development.

OMB Number: 0412–0017.

Form Number: AID 1440–3.

Type of Submission: Renewal.

Title: Contractor's Certificate and Agreement with A.I.D.—Contractor's Invoice and Contract Abstract.

Purpose: When A.I.D. is not a party to a contract which it finances, this form provides the means to collect information and to take appropriate action in the event contractors do not comply with A.I.D. requirements. The Invoice-and-Contract Abstract identifies the transaction being financed, provides information on the location of the contractor, and participation by small and minority-owned businesses. The information is used by the Agency to identify transactions in order to assure that statutory and regulatory requirements are met, and to provide a basis for requesting appropriate refund if requirements have not been met.

Reviewer: Marshall Mills (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: May 23, 1990.

Janet L.D. Vogel,

Planning and Evaluation Division.

[FR Doc. 90–12831 Filed 5–31–90; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31676]

Port of Tillamook Bay Modified Rail Certificate; Correct Notice

On May 2, 1990, a notice was filed by the Port of Tillamook Bay (POTB)[1], a governmental body and political subdivision of the State of Oregon, for a modified certificate of public convenience and necessity under 49 CFR 1150.23.

[1] The prior notice incorrectly referred to a lease operation under this modified rail certificate.

In Docket No. AB-12 (Sub-No. 103), Southern Pacific Transportation Company—Abandonment—Tillamook Branch in Washington and Tillamook Counties, OR (not printed), served August 28, 1986, (Tillamook Branch Abandonment) the Commission granted authority to Southern Pacific Transportation Company (SP) to abandon the Tillamook Branch line between milepost 770.5, at Schefflin, OR, and milepost 856.08, at Tillamook, OR, and allowed POTB to operate the line for at least 2 years to determine the viability of operations over the line prior to a public agency acquiring the line from SP.[2] POTB acquired the line on February 1, 1990, and submitted the required notice in that proceeding. *See Common Carrier Status of States, State Agencies*, 363 I.C.C. 132, 135 (1980).

POTB intends to operate the line itself as long as it remains economically profitable. It intends to provide rail carriage of property for hire to the public.[3] The service will be provided over POTB's Tillamook Branch line, including the main line, passing track, switches, and spurs.[4]

This notice must be served on the Association of American Railroads (Car Service Division), as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.[5]

Dated: May 29, 1990.

[2] An agreement between POTB and SP granting the Port of Tillamook Bay Railroad (PTBR) local trackage rights over SP's line between mileposts 856.08 nd 765.5, at Hillsboro, OR, was the subject of a notice of exemption in Finance Docket No. 30628, *Port of Tillamook Bay Railroad—Trackage Rights—Southern Pacific Transportation Company* (not printed), served May 21, 1986, (*PTBR Trackage Rights*). It appears that PTBR is actually the same entity as POTB.

[3] In addition, POTB has entered into leases with Oregon Coast Line Express (OCLE), dated February 1, 1990, under which OCLE will provide intrastate passenger excursion services to the public on the line owned by POTB.

[4] There is an interline connection with Burlington Northern Railroad Company at milepost 774.7, at or near Banks, OR. In addition, POTB, under a trackage rights agreement with SP, may provide service over that segment of rail line retained by SP, between mileposts 770.5 and 765.5.

[5] It appears that the trackage rights covered by the agreement involved in *PTBR Trackage Rights* are intended to be replaced by this operation. As a modified certificate holder has no outstanding common carrier obligation, POTB should, as a technical matter, seek authority to discontinue the prior trackage rights arrangement to ensure that the common carrier obligation that attaches to it is extinguished.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-12869 Filed 6-1-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31675]

Wertheim Schroder & Co. Inc.; Continuance in Control Exemption, Wheeling & Lake Erie Railway Co.

Wertheim Schroder & Co. Incorporated (Wertheim Schroder) has filed a notice of exemption to continue to control Wheeling & Lake Erie Railway Company (W&LE).[1] Wertheim Schroder controls Gateway Western Railway company (Gateway Western) through ownership of 100 percent of Gateway Western's preferred stock, which has voting rights until it is redeemed, and ownership of approximately 85 percent of Gateway Western's outstanding common stock, which has voting rights that vest only when all of the preferred stock is redeemed. On or about May 11, 1990, a limited partnershp in which a subsidiary of Wertheim Schroder is a general partner was to acquire 100 percent of the preferred stock of The Wheeling Corporation (Wheeling), of which W&LE is a wholly owned subsidiary, which preferred stock has voting rights until it is redeemed. In addition, the same partnership will acquire approximately 80 percent of the common stock of Wheeling, which has voting rights that vest only when all of the preferred stock is redeemed.

Immediately following Wertheim Schroder's acquisition of the W&LE preferred and common stock, W&LE will acquire, by purchase or sublease, certain lines of railroad from Norfolk & Western Railway Company. A notice of exemption covering this transaction was published February 6, 1990, in Finance Docket No. 31591, Wheeling Acquisition Corporation—Acquisition and Operation Exemption—Lines of Norfolk & Western Railway Company. After the transaction is consummated, Wertheim Schroder and the limited partnership in which its subsidiary is a general partner will each control a carrier, and thus Wertheim Schroder will control two carriers, Gateway Western and W&LE.

Wertheim Schroder indicates that: (1) The transaction involves lines that will not connect with each other or with any other railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or with any other railroad in their corporate family; and (3) the transaction does not involve a Class I carrier.

This transaction involves the continuance in control of a nonconnecting carrier and comes within the class exemption in 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock. Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Thomas W. Rissman, McLachlan and Rissman, 6 W. Hubbard Street, Suite 500, Chicago, IL 60610.

Dated: May 29, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-12870 Filed 6-1-90; 8:45 am]

BILLING CODE 7035-01-M

[1] W&LE was formerly named Wheeling Acquisition Corporation. Effective May 1, 1990, Wheeling Acquisition Corporation changed its name to Wheeling & Lake Erie Railway Company.

[Docket No. AB-290 (Sub 95X)]

Norfolk and Western Railway Co.; Abandonment Exemption—McDowell County, WV

Applicant has filed a notice of exemption under 49 CFR part 1152, subpart F—Exempt Abandonments to abandon its 0.7-mile line of railroad between mileposts KB-0.0 and KB-0.7, at Kimball, in McDowell County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the Complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—

Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 4, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c) (2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 14, 1990.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by June 25, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by June 8, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmetal concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 *I.C.C.2d 164 (1987)*.

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

Decided: May 24, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–12871 Filed 6–1–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub 92X)]

Norfolk and Western Railway Company, Abandonment Exemption, McDowell County, WV; Notice

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—Exempt Abandonments to abandon its 6.5-mile line of railroad between milepost NF–1.0, at Buzzards Creek Junction, and milepost NF–7.5, at Crumpler, in McDowell County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 4, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 14, 1990.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by June 25, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by June 8, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 24, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–12872 Filed 6–1–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–33 (Sub-No. 65X)]

Union Pacific Railroad Co., Discontinuance of Service Exemption Between St. Joseph, MO and Upland, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts Union Pacific Railroad Company from

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

the prior approval requirements of 49 U.S.C. 10903, *et seq.*, to discontinue service over a 107.3-mile line of railroad known as the St. Joseph Branch, extending from milepost 0.4 at St. Joseph, MO, to milepost 107.7 at Upland, KS, subject to standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 4, 1990. Petitions to stay must be filed by June 19, 1990. Petitions for reconsideration must be filed by June 29, 1990. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.(c)(2) must be filed by June 14, 1990.

ADDRESSES: Send pleadings, referring to Docket No. AB–33 (Sub-No. 65X), to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179, (402) 271–4315.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275–1721].

Decided: May 25, 1990.

By the Commission, Chairman, Philbin, Vice Chairman Phillips, Commissioners Simons, Lamboley, and Emmett. Vice Chairman Phillips concurred with a separate expression. Commissioner Simmons did not find that the transaction is of limited scope. However, he concluded that the transaction will not result in an abuse of market power.

Noreta R. McGee

Secretary.

[FR Doc. 90–12873 Filed 6–1–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–290 (Sub-No. 93X)]

Norfolk and Western Railway Co.; Abandonment Exemption in McDowell County, WV; Notice of Exemption

Applicant has filed a notice of exemption under 49 CFR part 1152, subpart F—Exempt Abandonments to abandon its 3.2-mile line of railroad between milepost D–0.0. at Davy, and milepost D–3.2, at Asco, in McDowell County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 4, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 14, 1990.[3] Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by June 25, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by June 8, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 30, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–12936 Filed 6–1–90; 8:45 am]

BILLING CODE 7035–01–M

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act; Allied-Signal, Inc.

In accordance with Department policy, 28 CFR 50.7, and section 122(d)(2) of CERCLA, 42 U.S.C. 106 and 107 notice is hereby given that on May 18, 1990, a proposed Consent Decree in *United States* v. *Allied-Signal, Inc.*, Civil Action No. 3:CV–90–0938, was lodged with the United States District Court for the Middle District of Pennsylvania. The Consent Decree requires defendant to pay $92,532.04 in past response costs incurred by the United States at the "Bendix" Superfund Site in South Montrose, Bridgewater Township, Susquehanna County, Pennsylvania, and to perform remedial (i.e., cleanup) actions at that Site. The estimated present value of the cleanup is $4,487,000.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States*

v. *Allied-Signal, Inc.*, DOJ Ref. 90–11–2–432.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Suite 309, Federal Building, Washington and Linden Streets, Scranton, Pennsylvania 18501. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the U.S. Department of Justice, room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice at the above address. In requesting a copy, please enclose a check in the amount of $5.10 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 90–12775 Filed 6–1–90; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act; CPC International, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *CPC International, Inc.*, Civil Action No. 90 C 2576, was lodged with the United States District Court for the Northern District of Illinois on May 9, 1990. This agreement resolves a judicial enforcement action brought by the United States against the defendant that alleged violations of the Clean Air Act arising from the violations of the Prevention of Significant Deterioration air pollution control regulations, 40 CFR 52.21, promulgated pursuant to part C of the Act, 42 U.S.C. 7470–91; and appendix S of 40 CFR 51.165, promulgated pursuant to part D of the Act, 42 U.S.C. 7501–08.

The proposed consent decree requires the defendant to abide by the particulate matter emissions limits established in its modified state construction and operating permits, and limits the defendant to an emissions ceiling of 504.9 tons per year of particulate matter. The proposed decree also requires defendant to provide EPA with a copy of the particulate matter emissions test report that must be submitted to the Illinois Environmental Protection Agency pursuant to the modified permits, and to certify that the test data provided is representative of current operations at defendant's plant. The proposed consent decree provides for payment of $50,000.00 in civil penalties in settlement of the action.

The Department of Justice will receive comments relating to the proposed consent decree for a period of (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Corn Products, a Unit of CPC International, Inc.*, D.J. Ref. 90–5–2–1–1258.

The proposed consent decree may be examined at the offices of Region V of the United States Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90–12776 Filed 6–1–90; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90–37)]

NASA Advisory Council (NAC), Aerospace Medicine Advisory Committee (AMAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aerospace Medicine Advisory Committee.

DATES: June 11, 1990, 8:30 a.m. to 5:30 p.m.; June 12, 1990, 8:30 a.m. to 5 p.m.; and June 13, 1990, 8:30 a.m. to 12 noon.

ADDRESSES: National Aeronautics and Space Administration, room 226A, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. J. Richard Keefe, Code SBF, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1525).

SUPPLEMENTARY INFORMATION: The Aerospace Medicine Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range planning of aerospace medicine research. The Committee will meet to discuss Space Station Freedom medical and environmental issues, Space Biology Initiative, Life Sciences status, and Discipline Working Group reports. The Committee is chaired by Dr. Harry C. Holloway and is composed of 24 members. The meeting will be closed on Tuesday, June 12, 1990, at 3:45 p.m. to allow for a discussion on qualifications of individuals being considered for membership to the Aerospace Medicine Committee. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 40 people including members of the committee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

Type of Meeting: Open—except for a closed session, as noted in the agenda below.

Agenda

Monday, June 11

8:30 a.m.—Chairman's Introduction.
9 a.m.—Operational Medicine Status.
9:45 a.m.—Space Station Freedom Medical Care Status.
10:45 a.m.—Space Station Freedom Environmental Control and Life Support Status.
1 p.m.—Space Station Freedom Suit Status.
2:45 p.m.—Centrifuge Accommodation Study Status.
3:30 p.m.—Centrifuge Facility Status.
4:15 p.m.—Space Biology Initiative Status.
5:30 p.m.—Adjourn.

Tuesday, June 12

8:30 a.m.—Life Sciences Division Status.
10:15 a.m.—Life Support Branch Status.
11:15 a.m.—Strategic Planning/Space Exploration Initiative Status.
1 p.m.—Office of Space Science and

Applications (OSSA) Program Status.
2 p.m.—Office of Aeronautics, Exploration and Technology (OAET) Program Status.
3:45 p.m.—Closed Session.
5 p.m.—Adjourn.
Wednesday, June 13
8:30 a.m.—Review/Disposition of AMAC Action Items.
9:00 a.m.—Discipline Working Group Reports.
12 noon—Adjourn.

Dated: May 29, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-12857 Filed 6-1-90; 8:45 am]

BILLING CODE 7510-01-M

[Notice (90-36)]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Space Physics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Space Physics Subcommittee.

DATES: June 18, 1990, 8:30 a.m. to 5:30 p.m.; June 19, 1990, 8 a.m. to 5 p.m.; June 20, 1990, 8 a.m. to 9:30 p.m.; and June 21, 1990, 8 a.m. to 3 p.m.

ADDRESSES: The Bethesda Ramada, Ambassador Room, 8400 Wisconsin Avenue, Bethesda, MD, 20814.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley Shawhan, Code SS, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1544).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Space Physics Subcommittee provides advice to the Space Physics Division and to the SSAAC on operation of the Space Physics Program and on formulation and implementation of the Space Physics research strategy. The Subcommittee will meet to develop a space physics strategy and plan for implementation of future missions. Subcommittee is chaired by Dr. George Siscoe and is composed of 29 members. The meeting will be open to the public up to the capacity of the room (approximately 80 including Subcommittee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda

Monday, June 18
8:30 a.m.—Introduction of Workshop Plan and Objectives.
9 a.m.—Review Mission Technical Cost Assessments.
5:30 p.m.—Adjourn.
Tuesday, June 19
8 a.m.—Review Preliminary Alternative Program Plans.
11 a.m.—Plan Further Program Development.
1 p.m.—Further Develop Alternative Program plans.
5 p.m.—Adjourn.
Wednesday, June 20
8 a.m.—Continue Developing Alternative Program Plans.
1 p.m.—Present and Review Alternative Program Plans.
7:30 p.m.—Develop Consensus.
9:30 p.m.—Adjourn.
Thursday, June 21
8 a.m.—Develop and Review Workshop Recommendations.
1 p.m.—Plan Post-Workshop Activities.
3 p.m.—Adjourn.

Dated: May 24, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-12858 Filed 6-1-90; 8:45 am]

BILLING CODE 7510-01-M

[Docket (90-38)]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee.

DATES: June 27, 1990, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 625, Federal Office Building 10B, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, Office of Aeronautics, Exploration and Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2367.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance and direction to the space research and technology activities in the Office of Aeronautics, Exploration and Technology (OAET). The Committee, chaired by Dr. Joseph F. Shea, is comprised of 20 members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Committee members and other participants).

Type of Meeting: Open.

Agenda

June 27, 1990
8:30 a.m.—Opening Remarks.
8:45 a.m.—Program Budget Status.
9:15 a.m.—Space Exploration Initiative Update.
11 a.m.—Space Research and Technology Program Update.
1:45 p.m.—Hubble Update.
2 p.m.—Ad Hoc Review Study Planning.
2:45 p.m.—General Discussion.
4 p.m.—Summary Session.
4:30 p.m.—Adjourn.

Dated: May 29, 1990.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-12858 Filed 6-1-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Design Advancement Grants to Individuals Section) to the National Council on the Arts will be held on June 20-21, 1990, from 9 a.m.-6:30 p.m. and on June 22 from 9 a.m.-5:30 p.m. in room M07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 22 from 3 p.m.–5:30 p.m. The topic will be the application review process.

The remaining portions of this meeting on June 20–21 from 9 a.m.–6:30 p.m. and on June 22 from 9 am.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202–682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 25, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–12784 Filed 6–1–90; 8:45 am]

BILLING CODE 7537–01–M

Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Dance on Tour Section) to the National Council on the Arts will be held on June 25, 1990, from 9:30 a.m.–5 p.m. and on June 26 from 9:30 a.m.–4 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

Portions of this meeting will be open to the public on June 25 from 9:30 a.m.–10 a.m. and on June 26 from 1 p.m.–4 p.m. The topics will be opening remarks, and guideline review/policy discussion.

The remaining portions of this meeting on June 25 from 10 a.m.–5 p.m. and on June 26 from 9:30 a.m.–1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 25, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–12785 Filed 6–1–90; 8:45 am]

BILLING CODE 7537–01–M

Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Fellowships for Translators Section) to the National Council on the Arts will be held on June 21, 1990, from 9 a.m.–6 p.m. and on June 22 from 9 a.m.–3 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 22 from 1 p.m.–3 p.m. The topic will be policy discussion.

The remaining portions of this meeting on June 21 from 9 a.m.–6 p.m. and on June 22 from 9 a.m.–1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: May 25, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–12786 Filed 6–1–90; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8829]

Ferret Exploration Company of Nebraska, Inc.; Final Finding of No Significant Impact Regarding Termination of the Source and Byproduct Material License for Operation Crow Butte Uranium In-Situ Leach Research and Development Project, Crawford, NE

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of final finding of no significant impact.

1. Proposed Action

The proposed administrative action is to terminate the source and byproduct material license authorizing Ferret Exploration Company of Nebraska, Inc. (Ferret) to operate the Crow Butte uranium in-situ leach research and development (R&D) facility located 4 miles southeast of Crawford, Dawes County, Nebraska. The Commission has determined not to prepare an environmental impact statement for this administrative action.

2. Reasons for Final Finding of No Significant Impact

The Crow Butte R&D project initiated leaching activities in two five-spot well fields in July 1986. In January, 1987, Ferret ceased mining operations in well field 2, initiating restoration and stabilization of the aquifer in February, 1987. Mining continued in well field 1.

On April 12, 1988, NRC approved Ferret's restoration report and eliminated further restoration requirements in well field 2 by license amendment. Meanwhile, mining continued in well field 1 until August,

1989. At that time, Ferret shut-in the well field in anticipation of continued solution mining as part of a future commercial project.

On December 29, 1989, NRC issued a new license (SUA–1534) to Ferret for commercial production of uranium at the Crow Butte site. Environmental monitoring and sampling requirements were transferred from the R&D license, SUA–1441, to the commercial license, SUA–1534, by an amendment to the commercial license dated May 4, 1990. NRC excepted monitoring requirements for restored well field 2, and generally increased the amount of sampling required in the quality assurance program of the R&D project. In addition, NRC requires that a new operational monitoring program be included in an approved Commercial Quality Assurance Program prior to injection of lixiviant under the commercial project.

Based on the staff reviews cited above, and conditions contained in the commercial license, the Commission has determined that no significant impact will result from the proposed administrative action. The following statements support the final finding of no significant impact and summarize the conclusions resulting from the environmental evaluations.

A. The licensee has demonstrated that ground-water quality can be stabilized and restored to values determined by the Nebraska Department of Environmental Control.

B. Remaining and future facilities and operations at the site are regulated by Source Material License SUA–1534.

In accordance with 10 CFR 51.34(a), the Director, Uranium Recovery Field Office (URFO), made the determination to issue a final finding of no significant impact in the **Federal Register**. Concurrent with this finding, Source Material License SUA–1441 for the Ferret Crow Butte R&D Project will be terminated.

The environmental evaluations setting forth the basis for the finding are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document room at 1717 H Street, Washington, DC.

Dated at Denver, Colorado, this 16th day of May, 1990.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office, Region IV.

[FR Doc. 90–12863 Filed 6–1–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–440]

Cleveland Electric Illuminating Co. et al.; Perry Nuclear Power Plant Unit 1; Receipt of Petition for Director's Decision

Notice is hereby given that a Petition dated April 6, 1990, and signed by Ms. Susan L. Hiatt for Ohio Citizens for Responsible Energy, Inc., has requested that the U.S. Nuclear Regulatory Commission order the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company to place the Perry Nuclear Power Plant, Unit No. 1, in cold shutdown until the Division 2 Emergency Service Water System is made operable and to impose a civil penalty upon the Cleveland Electric Illuminating Company.

The Petition was filed pursuant to 10 CFR 2.206 of the Commission's regulations and has been referred to the Director of Nuclear Reactor Regulation. As provided in 10 CFR 2.206, the Director will take action upon the Petition within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 29th day of May 1990.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 90–12862 Filed 6–1–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302, License No. DPR–72, EA 89–118]

Florida Power Corp. (Crystal River Unit 3); Order Imposing Civil Monetary Penalty

I

Florida Power Corporation (Licensee) is the holder of Operating License No. DPR–72 issued by the Nuclear Regulatory Commission (Commission or NRC) on January 28, 1977. The license authorizes the Licensee to operate the Crystal River facility in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities was conducted on April 24–28, 1989. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated September 13, 1989. The Notice states the nature of the violations, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations. The Licensee responded to the Notice by letter dated October 17, 1989. In its response, the Licensee admitted the violations but argued that the NRC Enforcement Policy had been improperly applied in determining the amount of the civil penalty proposed. The Licensee argued that proper application of the facts would result in the NRC staff changing its conclusion that the Licensee had failed to implement a satisfactory EQ program prior to plant operation following the November 30, 1985 deadline for compliance with 10 CFR 50.49. Further, the Licensee argued that, based on the facts, significant mitigation of the proposed civil penalty was warranted.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of $100,000 within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Secretary, U.S. Nuclear Regulatory Commission and the Assistant General Counsel for Hearings

and Enforcement, at the same address and to the Regional Administrator, NRC Region II, 101 Marietta Street NW., Atlanta, Georgia 30323.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

Whether, on the basis of the violations set forth in the Notice, which are admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 24th day of May 1990.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Supply, Safeguards, and Operations Support.

Appendix—Evaluation and Conclusion

On September 13, 1989, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection. Florida Power Corporation (FPC or Licensee) responded to the Notice on October 17, 1989 (Response). The Licensee admits the violations, but requests that the NRC staff reconsider its conclusion that the violations identified indicate a programmatic failure in the area of environmental qualification (EQ) warranting a civil penalty and also requests mitigation of the civil penalty based on the factors of the NRC Enforcement Policy. The NRC's evaluation and conclusions regarding the licensee's requests are addressed below.

Restatment of Violations

A. 10 CFR 50.49(a) requires each holder of a license for operation of a nuclear power plant to establish a program for qualifying electric equipment identified in 10 CFR 50.49(b).

10 CFR 50.49(b) defines equipment important to safety and includes:

(1) Safety-related electric equipment, i.e., equipment relied upon to remain functional during and following design basis event.

(2) Certain post-accident monitoring equipment.

10 CFR 50.49(d) requires the licensee to prepare a list of electric equipment important to safety covered by this section.

10 CFR 50.49(f) requires that each item of electric equipment important to safety shall be qualified by testing and/or analysis under postulated environmental conditions.

10 CFR 50.49(j) requires that a record of qualification for the electric equipment important to safety, as identified on the Master List, be maintained in an auditable form for the entire period during which the covered item is installed in the nuclear power plant.

Contrary to the above, since November 30, 1985 the licensee failed to comply with the above EQ requirements as evidenced by the following violations:

1. On December 9, 1988, it was discovered that certain safety-related motor control centers in the Auxiliary Building had not been demonstrated to be qualified for the environmental conditions resulting from a postulated auxiliary steam line crack.

2. On December 16, 1988, it was identified that valve motor operators FWV–14 and 15 and WDV–406 contained tape splices and the licensee could not demonstrate qualification for the valve motor operators in that the licensee did not have a record of qualification for the tape splices.

3. As of April 24, 1989, the licensee did not have a record of qualification for Kerite Tape splices such as the one used in electrical penetration EPA–412.

4. As of April 24, 1989, three GEMS Containment Sump Level transmitters (WD 303–LT–A&B and WD 302–LT–B) were found to be in a configuration other than the tested configuration in that the associated junction boxes were not filled with silicone oil. The licensee did not have analysis to demonstrate the acceptability of the installed condition.

5. The record of qualification for certain ASCO solenoid valves such as those used in the Main Steam Isolation Valves was deficient in that it did not adequately support a 40-year qualified life for the solenoid valves when considering the effects of elevated localized temperatures from the hot process piping.

6. Electrical penetration EPA–128, which contains the cables for required post accident monitoring temperature elements AH–536, 537, 538 and 539–TE, was not on the master list of electric equipment important to safety.

7. The four Limitorque valve motor operators associated with valves RCV–11, CAV 1, 3, and 4, respectively, were installed inside containment without functioning T-drains and grease reliefs; however, the licensee did not have analysis to demonstrate the acceptability of the installed configuration.

8. Weidmuller terminal blocks were not properly qualified for use inside containment in that the qualification documentation did not contain insulation resistance values taken during the accident profile testing and did not contain analysis to demonstrate the acceptability of the installation of these terminal blocks in junction boxes, which differed from those tested, in that the installed boxes had no weep holes.

9. Valve RC–11 was found installed in a configuration other than the tested configuration and the licensee did not have analysis to demonstrate the acceptability of the installed configuration. Specifically, the valve was found with degraded grease in gear box and cracked wiring insulation.

10. Transmitters RC–163 ALT, RC–163 BLT, RC–164 ALT, RC–164 BLT, RC–14A delta PT–1–3, RC–14B delta PT 1–3, SP–31 LT, SP–32 LT, SP–21 LT, SP–22 LT, SP–23 LT and SP–24 LT were installed in configurations other than the tested configuration and the licensee did not have analysis to demonstrate the acceptability of the installed configurations. Specifically, the transmitters were installed below the design basis accident flood level but the associated cables and splices had not been qualified for submergence.

11. Eleven butt splices on Main Steam pressure transmitters MS–106 PT, through MS–133 PT and Emergency Feedwater Flow Transmitters EF–24 FT through EF–26 FT were found installed with Raychem WCSF–115 sleeves instead of the required WCSF–070 sleeves and the licensee did not have analysis to demonstrate the acceptability of the installed configuration.

B. 10 CFR part 50, appendix B, Criterion V requires, in part, that activities affecting quality be prescribed by documented procedures appropriate to the circumstances.

Contrary to the above, procedures MP–405 and PM–133 were not appropriate for the circumstances in which they were used in that they lacked sufficient detail to ensure the qualified status of certain equipment required by 10 CFR 50.49 was maintained. Specifically, MP–405 did not properly consider vendor bend radius limitations for cables and PM–133 did not properly consider vendor requirements for bearing lubrication.

This is a Severity Level III problem (Supplement I).

Summary of Licensee's Response

FPC admits that the violations occurred and does not take issue with the facts stated in the Notice. However, FPC believes that the NRC staff incorrectly concluded that FPC failed to implement a comprehensive EQ program in 1985, resulting in significant EQ deficiencies and also incorrectly concluded that a civil penalty was warranted.

The Licensee bases its position that the NRC staff improperly concluded that FPC had failed to implement a comprehensive EQ program on a number of factors. First, FPC argues that the limited scopes of a number of the NRC inspections were inadequate to assess the overall EQ program at Crystal River, that FPC's identification of a considerable number of the violations at issue is indicative of a satisfactory EQ program, and that the limited significance of the violations does not support the NRC staff's conclusion. Second, FPC contends that the evolution of EQ expectations by the NRC staff, and not the lack of an acceptable existing EQ program, has been responsible for the NRC staff's perception of the FPC program, has been responsible for the NRC staff's perception of the FPC program. Finally, FPC argues that the NRC staff has apparently viewed FPC's extensive EQ upgrade program, which went far beyond corrective actions for the violations at issue, as an admission of a programmatic breakdown.

FPC also requests mitigation of the proposed civil penalty on the basis that the mitigating and escalating factors in 10 CFR part 2, appendix C (NRC Enforcement Policy), section V.B., were not appropriately considered and applied in assessing the proposed civil penalty. FPC bases its request for further consideration of mitigation on the following: (1) The majority of the issues identified in the Notice were identified by FPC and properly reported, (2) corrective actions involved significant efforts beyond the NRC-identified deficiencies, FPC's "EQ Enhancement Plan" went well beyond correcting known problems and the schedule of corrective actions was quite aggressive, (3) FPC has no adverse past performance in the EQ area, (4) although it had specific prior notification for several items, several other items were site-specific for which the licensee had no prior notice, and (5) the Notice addresses multiple examples of generally isolated and minor EQ discrepancies of limited safety significance.

NRC Evaluation of Licensee's Response

NRC Inspection Report 50–302/85–09 sent to FPC by a letter dated June 10, 1985 documented the NRC staff's review of the Crystal River EQ program. That inspection made a broad review of the proposed EQ program for the plant and determined that, while considerable progress had been made toward implementing the program, a substantial amount of work needed to be done prior to restart from the refueling outage that was in progress at the time of the inspection, in order to meet the requirements of 10 CFR 50.49. With that inspection as a reference point, the NRC staff concluded, based on the subsequent more narrowly focused inspections, that the types of violations subsequently identified by FPC and NRC inspectors represented a breakdown in the Crystal River EQ program.

The conclusion that the violations found represented a significant programmatic weakness was reached because, in numerous instances, the violations identified were issues that should have been resolved based on the findings of the 1985 inspection or NRC generic correspondence issued both before and after that inspection, but prior to November 30, 1985. That being the case, the NRC staff concludes that the fact that the Licensee subsequently identified some of the violations is irrelevant to this discussion because the issue is not who identified the violations but whether an adequate program would have originally left such issues unresolved. The NRC staff acknowledges that a number of the violations are not extremely significant individually. However, as explained above, the Licensee's prior opportunities to address the deficiencies is the primary concern. Further, as discussed later in this Appendix, the NRC staff's recognition of the lesser significance of some of the violations was accounted for by aggregating the violations found as a Severity Level III problem and not escalating the civil penalty based on multiple examples.

Although the Licensee asserts that evolving EQ expectations on the part of the NRC staff have been responsible for the NRC staff's current perception of EQ issues, the Licensee fails to support that contention with any examples of such evolving regulatory positions. Conversely, the NRC staff provided the Licensee, in the cover letter to the Notice, with numerous examples of pre-November 30, 1985 generic correspondence which support the NRC staff's position that, for many of the identified deficiencies there was an existing rather than evolving, regulatory position.

With regard to the Licensee's contention that the NRC staff viewed FPC EQ upgrade program as an admission of a programmatic breakdown, the NRC staff can only state that the conclusions reached above are alone sufficient to conclude that there was a program breakdown. Therefore, what the NRC staff thought or concluded about the FPC upgrade is not relevant.

The NRC Enforcement Policy factor of "Identification and Reporting" allows for up to a 50 percent reduction of the base civil penalty when a licensee identifies the violation and promptly reports the violation of the NRC. No consideration for a reduction in the penalty will be given if the licensee does not take immediate action to correct the problem upon identification. Furthermore, the base penalty may be increased by as much as 50 percent if the NRC identifies the violation provided the licensee should have reasonably discovered the violation before the NRC identified it. In applying this factor, consideration is given to, among other things, the opportunity available to discover the violation, the ease of discovery and the promptness and completeness of any required report. The NRC staff acknowledges that some of the violations in this case were identified by the Licensee. However, the NRC inspectors also identified an approximately equal number of the violations. Further, the NRC staff concludes that the licensee should have discovered and acted on many of the deficiencies much earlier than was done. As stated in the Licensee's Response, no new requirements have been imposed regarding EQ since the promulgation of 10 CFR 50.49 on November 30, 1985. The NRC staff's evaluation relevant to this factor considered what information has been available to the Licensee to assist in discovering that the equipment was not qualified at the time of the inspection. In the case of Crystal River 3, NRC staff concludes that adequate information was provided through NRC Information Notices, Bulletins, Circulars and Inspection Reports (identified in the cover letter to the Notice) which should have led the Licensee to identify the problems more promptly, had adequate management and programmatic controls been implemented to act on the available information. Based on these considerations, the NRC staff found that mitigation was not warranted for the identification and reporting factor.

The NRC Enforcement Policy factor of "Corrective Action To Prevent Recurrence" allows for up to a 50 percent increase or decrease in the base civil penalty based on the promptness and extent to which the licensee takes corrective action, including actions to prevent recurrence. The NRC staff acknowledges that FPC has taken appropriate corrective action to resolve the specific violations identified. However, the broad-based corrective actions, in such areas as training, which the NRC staff normally considers when evaluating whether mitigation of a civil penalty is appropriate for a licensee's corrective action, that have been included in FPC EQ Enhancement Program are yet to be completed. The NRC staff's concern with the timeliness of FPC's broad corrective actions was expressed at the enforcement conference and was again noted in the cover letter to the Notice.

While the previous discussion alone is sufficient to justify not mitigating the civil penalty for the Licensee's corrective actions, the NRC staff also considered the overall circumstances of this case in deciding whether such mitigation of the civil penalty should be applied. Having concluded that a programmatic breakdown in the management controls of the EQ program at Crystal River 3 occurred and mindful of the Enforcement Policy's guidance calling for application of maximum enforcement authority in such cases, the NRC staff reasoned that mitigation for corrective actions should only be applied for truly comprehensive and timely corrective actions. As the NRC staff has concluded above, the Licensee's broad-based corrective actions were not timely and, therefore, mitigation for corrective actions is not warranted in this case of a programmatic breakdown.

The NRC Enforcement Policy allows up to a 100 percent increase in the base civil penalty under the factor of "Prior Notice of Similar Events" where the licensee had prior knowledge of a potential problem as a result of a licensee review, a specific NRC or industry notification or other reasonable indication of a potential problem, and failed to take effective preventative steps. The NRC Enforcement Policy factor of "Past Performance" allows for an increase of the base civil penalty by as much as 100 percent for prior poor performance or a reduction of the base civil penalty by as much as 100 percent for prior good performance. In this case, the NRC staff escalated the base civil penalty a total of 100 percent when taking the above two factors into consideration. The factors are discussed together because, in this case, the November 30, 1985 deadline for compliance with 10 CFR 50.49 caused the NRC staff to address previous NRC inspection findings and previous Licensee initiatives in the specific area of concern before and after the deadline differently. Normally, previous NRC inspection findings and licensee initiatives at the plant under consideration in a particular enforcement action are considered elements of past performance. However in this case, because no enforceable performance standard for EQ existed prior to the deadline, such activities performed before the deadline have been considered as elements of prior notice along with the elements normally considered as prior notice such as NRC generic correspondence. Following the November 30, 1985 deadline, previous NRC inspection findings and Licensee initiatives are considered elements of past performance, as they normally are, along with such elements as Systematic Assessment of Licensee Performance (SALP) results.

Escalation for prior notice is clearly warranted in this case given the numerous NRC generic documents that should have alerted FPC to EQ problems subsequently discovered. Additionally, the NRC staff's pre-deadline inspection of the Crystal River EQ program afforded the Licensee a significant opportunity to address potential problems. However, despite such notice, the Licensee carried out a very narrowly focused program and failed to take advantage of the opportunity the inspection results offered. For example, during the NRC inspection (Inspection No. 50–302/85–09) conducted on March 4–8, 1985, issues related to T-drains were discussed and the Licensee indicated that an inspection would be performed to verify the presence of T-drains on Limitorque valve operators. Licensee Event Report (LER) 89–016 and subsequent revisions indicated that each of the 21 EQ valve actuators in the Reactor Building were inspected but not until 1986. These inspections discovered deficiencies related to T-drains and grease reliefs including the fact that, when 13 EQ valve actuator motors were installed in the Reactor Building in 1985 as part of the Licensee's modification program, specific instructions for verification of T-drains and grease reliefs were only provided for nine of the actuators. Another example of the Licensee's prior notice for an EQ problem related to the discovery of high temperature damage to the motor cables associated with the PORV Block valve, RCV–11. The Licensee was aware of the high temperature heating problems in 1981, 1983, and 1985, yet failed to take the necessary steps to revise the qualified life of the cables and actuators in the EQ Program. Finally, problems with States/ZWM terminal blocks and Kerite tape-type terminals were discussed in NRC Inspection Report No. 50–302/85–09. Nevertheless in 1988, the Licensee still had unqualified States terminal blocks in the RCS Vent System, failed to remove Kerite tape-type terminals from the EQ program and failed to ensure the Weidmuller terminal blocks were installed in the tested configuration. In summary, the NRC staff concludes that 50% escalation for prior notice is justified.

With regard to past performance, the Licensee's overall performance in relevant SALP areas such as engineering and quality programs, when considered along with NRC inspection findings and Licensee EQ activities after the EQ deadline, justify escalation of the base civil penalty under the past performance factor. An example of the Licensee's poor prior performance relates to the Licensee's handling of the T-drain problem discussed above. After the Licensee discovered and documented the problem in 1986, it did not effect corrective actions until 1989. In summary, the NRC staff concludes that 50% escalation for prior poor performance is justified. Full escalation of 100% as allowed by the Enforcement Policy was deemed inappropriate give the unique relationship in this case between this factor and prior notice as discussed more fully above.

No escalation of the civil penalty was applied for the factor of "Multiple Occurrences" because that factor was considered in categorizing the violation at Severity Level III.

NRC Conclusion

The NRC staff has concluded that the Licensee has provided neither an adequate basis to cause the NRC to recharacterize its assessment of the Crystal River EQ program nor an adequate basis for mitigation of the base civil penalty. Consequently, the proposed civil penalty in the amount of $100,000 should be imposed.

[FR Doc. 90–12865 Filed 6–1–90; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. 030-31379 and 030-01615; ASLBP No. 90-612-04-OM]

St. Mary Medical Center—Hobart and Gary, Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 29810 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding.

St. Mary Medical Center—Hobart and Gary

Byproduct Material License Nos. 13–03459–03 and 13–03459–02 EA 90–071

This Board is being established pursuant to the Licensees' request for a hearing regarding an Order issued by the Director, Office of Enforcement, dated April 27, 1990, entitled "Order Suspending Brachytherapy Activities and Modifying Licenses (Effective Immediately)" (55 FR 19376, May 9, 1990).

The "Order" suspended those provisions of the Materials License held by the Medical Centers which allow Brachytherapy treatment until the Centers comply with certain requirements specified in the Order.

Dr. Koppolu F. Sarma, one of the two listed authorized users of byproduct material under 10 CFR 35.400 also has filed an Answer and a Petition For Leave To Intervene.

An Order designating the time and place of any hearing will be issued at a later date.

All correspondence, documents and other materials shall be filed in accordance with 10 CFR 2.701. The Board is comprised of the following Administrative Judges:

Judge Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Judge Walter H. Jordan, 881 W. Outer Drive, Oak Ridge, TN 37830.

Judge Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, MD, this 25th day of May, 1990.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 90–12867 Filed 6–1–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–443]

Union Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 54 to Facility Operating License No. NPF–30, issued to Union Electric Company, which revised the Technical Specifications for operation of the Callaway Plant Unit 1, located in Callaway County, Missouri. The amendment was effective as of the date of issuance.

The amendment modified the Technical Specifications section 5.3.1. and 5.6.1.1 to allow fuel with a maximum initial enrichment of 4.45 weight percent to be stored in Region I of the Callaway spent fuel pool.

The application for the amendment complies with standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 27, 1990 (55 FR 6850). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) The application for amendment dated December 28, 1989, as supplemented March 6, 1990 (2) Amendment No. 54 to License No. NPF–30, (3) the Commission's related Safety Evaluation dated May 25, 1990 and (4) the Environmental Assessment dated May 2, 1990 (55 FR 19375). All of these items are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document rooms, Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland this 25th day of May 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–12864 Filed 6–1–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 70–00270 and 30–02278]; ASLBP No. 90–613–02–MLA]

The University of Missouri; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the presiding officer to conduct the hearing in the event that an informal adjudicatory hearing is ordered in the following Materials Licensing proceeding.

The University of Missouri

Special Nuclear Materials License No. SNM–247

Byproduct Materials License No. 24–00513–32

The Presiding Officer is being designated pursuant to 10 CFR 2.1207 of the Commission's Regulations, "Informal Hearing Procedures for Materials Licensing Adjudications", published in the **Federal Register**, 54 FR 8269 (1989). This action is in response to requests for an adjudicatory hearing submitted by the Missouri Coalition for the Environment, Mid-Missouri Nuclear Weapons Freeze, Inc., and Physicans for Social Responsibility/Mid-Missouri Chapter. The requestors desire a hearing on the application of the University of Missouri for amendments to its materials licenses to permit the "Trump–S" project.

The presiding officer in this proceeding is Administrative Judge Peter B. Bloch.

Following consultation with the Panel Chairman, pursuant to the provisions of

10 CFR 2.722, the Presiding Officer has appointed Administrative Judge Gustave A. Linenberger, Jr., to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Bloch and Judge Linenberger in accordance with 10 CFR 2.701. Their addresses are:

Administrative Judge Peter B. Bloch, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Administrative Judge Gustave A. Linenberger, Jr., Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 25th day of May, 1990.

Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 90-12866 Filed 6-1-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of RI 30-9 Submitted to OMB for Clearance

AGENCY: Office of personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of an information collection, RI 30-9, Reinstatement of Disability Annuity Previously Terminated Because of Restoration To Earning Capacity. This form is used by the Office of Personnel Management, Civil Service Retirement System, to reinstate disability benefits to annuitants when benefits were previously terminated due to restoration of the annuitant's earning capacity.

Approximately 200 forms are completed annually, each requiring approximately 1 hour to complete, for a total public burden of 200 hours. For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received on or before July 5, 1990.

ADDRESSES: Send or deliver comments to—

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-12803 Filed 6-1-90; 8:45 am]

BILLING CODE 6325-01-M

Request for Extension of SF 2808 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of an information collection, SF 2808, Designation of Beneficiary. This form is completed by Federal employees and annuitants to designate a beneficiary to receive the lump sum payment due from the Civil Service Retirement System in the event of death. This OMB Clearance is only submitted for annuitants required to complete the form.

Approximately 2,000 annuitant forms are completed annually, each requiring approximately 15 minutes to complete, for a total public burden of 500 hours. For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received on or before July 5, 1990.

ADDRESSES: Send or deliver comments to—

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-12804 Filed 6-1-90; 8:45 am]

BILLING CODE 6325-01-M

Request for Extension of RI 30-1 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of an information collection, RI 30-1, Request to Disability Annuitant for Information on Physical Condition and Employment. This form is completed by Civil Service Retirement System annuitants (under age 60) whose disability is not permanent in character to annually provide employment and medical documentation verifying their continued disability. A statement from the annuitant's physician must accompany this form.

Approximately 8,000 forms are completed annually, each requiring approximately 1 hour to complete, for a total public burden of 8,000 hours. For copies of this proposal, call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received on or before July 5, 1990.

ADDRESSES: Send or deliver comments to—

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-12805 Filed 6-1-90; 8:45 am]

BILLING CODE 6325-01-M

Request for Extension of RI 38-31 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of an information collection, RI 38-31, We Need More Information About Your Missing Payment. OPM uses form RI 38-31 to obtain additional identifying information and/or certification of a lost or stolen payment from the Civil Service Retirement and Disability Fund. This information and/or certification is needed for OPM to trace the lost payment and to take corrective action.

Of the estimated 20,000 forms processed, 19,800 (99%) require approximately 10 minutes to complete,

for an annual burden of 3,300 hours; the other 200 forms are completed for missing electronic transfer payments, and require approximately 30 minutes per form, for an annual burden of 100 hours. The total public burden is 3,400 hours. For copies of this proposal, call C. Ronald Trueworthy on (202) 606–2261.

DATES: Comments on this proposal should be received on or before July 5, 1990.

ADDRESSES: Send or deliver comments to—

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90–12806 Filed 6–1–90; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–73]

Termination of Section 302 Investigation; Certain Import Restrictions in Brazil

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of termination of investigation under section 302 of the Trade Act of 1974, as amended.

SUMMARY: The United States Trade Representative (USTR) has decided to terminate an investigation initiated under section 302 of the Trade Act of 1974 as amended (Trade Act) with respect to certain restrictions on imports maintained by the Government of Brazil, since those restrictions have been removed.

DATES: This investigation was terminated effective May 21, 1990.

FOR FURTHER INFORMATION CONTACT: Jon Huenemann, Director, Brazil and Southern Cone Affairs, (202) 395–5190, or Jane Bradley, Deputy General Counsel and Assistant U.S. Trade Representative for Dispute Resolution, (202) 395–3432.

SUPPLEMENTARY INFORMATION: On May 26, 1989, under section 310 of the Trade Act, the USTR identified as a "priority practice" certain quantitative import restrictions maintained by the Government of Brazil (54 FR 24438). Brazil maintained an import prohibition list which covered approximately 1,000 items, and also used its licensing regime to implement *de facto* company-specific and sectoral import quotas.

On June 16, 1989, USTR initiated an investigation of these import restrictions under section 302 of the Trade Act (54 FR 26135). In July 1989 USTR received public comments on Brazil's policies and practices and on the burden or restriction on U.S. Commerce caused by these practices. In September 1989 talks were held with the government of Brazil and on October 6, 1989, the United States requested formal consultations under Article XXIII:1 of the General Agreement on Tariffs and Trade (GATT). Those talks were held on December 11, 1989.

During these discussions, Brazil indicated its intent to significantly reduce the "prohibited" import list and expand the *de facto* quotas. Some minor liberalization of the *de facto* quotas occurred in February 1990. However, when action to reduce the "prohibited" import list did not occur, the United States informed Brazil of its intention to request dispute settlement proceedings under GATT Article XXIII:2 if no resolution was forthcoming.

On May 14, 1990, the USTR was informed by the Government of Brazil that its Ministry of Economy had implemented Resolution Number 56, issued March 15, 1990, which eliminates quantitative restrictions on imports. In particular, the "prohibited list" of imports that was the subject of this investigation (Annex C of CACEX Communique 205, originally established in 1976) has been abolished. The Government of Brazil also informed the USTR that its new external trade policy will rely on tariffs as the main regulatory instrument for Brazilian imports, rather than quantitative restrictions, thus giving the Brazilian import regime transparency and predictability.

In light of the foregoing, on May 21, 1990, the USTR terminated the investigation initiated pursuant to section 302(b)(1) of the Trade Act, because the practices that were the subject of the investigation no longer exist.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 90–12843 Filed 6–1–90; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended May 25, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 46953
Date filed: May 23, 1990
Parties: Members of the International Air Transport Association
Subject: Completed Mail Vote to Adopt Resolution 024
Proposed Effective Date: July 1, 1990

Docket Number: 46954
Date filed: May 23, 1990
Parties: Members of the International Air Transport Association
Subject: Fare Levels From Scandinavia
Proposed Effective Date: Upon Approval

Docket Number: 46959
Date filed: May 25, 1990
Parties: Members of the International Air Transport Association
Subject: Europe-Southeast Asia Resolution
Proposed Effective Date: June 1/July 1, 1990

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90–12847 Filed 6–1–90; 8:45 am]

BILLING CODE 4910–62–M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Field Under Subpart Q During the Week Ended May 25, 1990

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 46951
Date filed: May 23, 1990
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 20, 1990
Description: Application of Birgern Havacilik Carter Grubu Tic. Ve San.

A.S. (Birgenair), pursuant to section 402 of the Act and subpart Q of the Regulations, requests authority to provide charter foreign air transportation of persons and accompanying baggage between points in the United States and points in the Republic of Turkey.

Docket Number: 46955
Date filed: May 24, 1990
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 21, 1990
Description: Application of Empire Airlines, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing interstate and overseas scheduled air transportation.

Docket Number: 46956
Date filed: May 24, 1990
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 21, 1990
Description: Application of American West Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a new or amended certificate of public convenience and necessity authorizing it to provide service between the terminal point Honolulu, Hawaii, on the one hand, and the co-terminal points Taipei and Hong Kong, on the other.

Docket Number: 46960
Date filed: May 25, 1990
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 22, 1990
Description: Application of United Air Lines, Inc. pursuant to section 401 of the Act and subpart Q of the Regulations, requests renewal of its Experimental Certificates of Public Convenience and Necessity for Routes 115 and 130 authorizing service in various transpacific markets.

Docket Number: 42360–42480
Date filed: May 25, 1990
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 22, 1990
Description: Petition of Varig, S.A., pursuant to section 402 of the Act, for Reinstatement and Amendment of its foreign air carrier permit so that it can operate with the full panoply of rights to which it is entitled pursuant to the currently effective Bilateral Air Transport Agreement between the governments of Brazil and the United States.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 90–12848 Filed 6–1–90; 8:45 am]
BILLING CODE 4910–62–M

Office of the Secretary

[Docket No. 45928; Notice No. 90–20]

Workplace Drug Testing Programs; Lifting of Suspension

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of lifting of suspension, laboratory again meets minimum standards to engage in urine drug testing.

SUMMARY: This notice concerns the lifting of suspension of a drug testing laboratory by the Department of Health and Human Services (DHHS), the result is that it may again be used for DOT-mandated drug testing.

EFFECTIVE DATE: This notice is effective immediately.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., room 10424, Washington DC, 20590. (202–366–9306).

SUPPLEMENTARY INFORMATION: The Department of Transportation recently adopted a final rule concerning testing procedures applicable to drug testing programs the Department requires in five transportation industries. The Department requires that employers use only laboratories certified under the Department of Health and Human Services (DHHS) "Mandatory Guidelines for Federal Workplace Drug Testing Programs," 53 FR 11970, April 11, 1988. Earlier this year, DHHS suspended the drug testing certification of a laboratory, until certain problems could be corrected. During the suspension, the laboratory was ineligible to conduct DOT-mandated drug tests.

Effective April 26, 1990, the DHHS reinstated this laboratory to engage in urine drug testing. Its name and address are as follows:

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chase, LA 70037, 504–392–7961.

For this reason, employers regulated by DOT may resume use of this laboratory for testing urine samples under DOT drug testing rules.

Issued this 25th day of May, 1990, at Washington, DC.

Melissa J. Allen,
Deputy Assistant Secretary for Administration.
[FR Doc. 90–12796 Filed 6–1–90; 8:45 am]
BILLING CODE 4910–62–M

Federal Aviation Administration

Advisory Circular; Approval of Automobile Gasoline (Autogas) Instead of Aviation Gasoline (Avgas) in Part 23 Airplanes With Reciprocating Engines; Correction

AGENCY: Federal Aviation Adminsitration (FAA), DOT.

ACTION: Correction to an Advisory Circular.

SUMMARY: The intent of this action is to correct the comment close date. In Volume 55, page 21296, column 1 of the Federal Register dated Wednesday, May 23, 1990, please change comment close date to read July 23, 1990.

FOR FURTHER INFORMATION CONTACT: Roland H. West, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426–6941 or FTS 867–6941.

Denise D. Hail,
Manager, Program Management Staff ACC–110.
[FR Doc. 90–12813 Filed 6–1–90; 8:45 am]
BILLING CODE 4910–13–M

[Summary Notice No. PE–90–25]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 25, 1990.

ADDRESSES: Send comments on any petition in triplicate to:
Federal Aviation Administration,
Office of the Chief Counsel,
Attn: Rules Docket (AGC-10),
Petition Docket No. _____,
800 Independence Avenue SW.,
Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on May 29 1990.

Denise Donohue Hall,

Manager, Program Management Staff Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 26187.
Petitioner: IASCO.
Sections of the FAR Affected: 14 CFR 145.45.
Description of Relief Sought: To allow IASCO to keep its manuals in a central location for all required personnel instead of providing a copy of the manual to each of its supervisory and inspection personnel.

Docket No.: 26172.
Petitioner: John R. Erlandson.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought: To allow Mr. Erlandson to be a pilot in aircraft operations under part 121 of the FAR past his 60th birthday.

Docket No.: 26193.
Petitioner: Aircraft Owners and Pilots Association.
Sections of the FAR Affected: 14 CFR part 121, Appendix I and III (c) and (f) and § 135.1(b).
Description of Relief Sought: To allow relief, particularly economic, from random drug-testing requirements for Group C commercial aircraft operators, specifically part-time flight instructors.

Docket No.: 26205.
Petitioner: North American Airline Training Group.
Sections of the FAR Affected: 14 CFR 141.91(a).
Description of Relief Sought: To allow North American Airline Training Group to conduct training at its approved flight training facilities located further than 25 miles from its main operations base.

Docket No.: 26187.
Petitioner: Ameriflight, Inc.
Sections of the FAR Affected: 14 CFR 135.85(a).
Description of Relief Sought: To allow Ameriflight to transport crewmembers and mechanics of other certificate holders on its cargo flights conducted under part 135.

[FR Doc. 12814 Filed 6-1-90; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 135—Environmental Conditions and Test Procedures for Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the Special Committee 135—Environmental Conditions and Test Procedures for Airborne Equipment Meeting to be held June 25-26 in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks, (2) approval of the fifteenth meeting's minutes, (3) review status and comments relative to section 23.0 "Lightning Direct Effects," (4) review latest draft of section 22.0, "Lightning Induced Transient Susceptibility," (5) review of a proposed revision to the Decompression Test and a U.S.S.R. technical report for measuring vibration levels on airborne equipment, (6) discuss future work plan for updating RTCA DO-160C, (7) review revised terms of reference, (8) update change coordinator list, (9) other business, and (10) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 29.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 90-12812 Filed 6-1-90; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement, Snohomish County, WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplement to a Final Environmental Impact Statement (SEIS) will be prepared for a proposed highway project in Snohomish County, Washington.

FOR FURTHER INFORMATION CONTACT: Allan Stockman, Location/Environmental Engineer, Western Federal Lands Highway Division, Federal Highway Administration, 610 East Fifth Street, Vancouver, Washington 98661-3893, Telephone: (206) 696-7751.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Snohomish County and the Forest Service, will prepare a Supplement to the Final Environmental Impact Statement (SEIS) on a proposal to improve a portion of Washington Forest Highway 7, the Mountain Loop Highway, in Snohomish County, Washington. The original EIS (FHWA-WAFP-EIS-74-01-F) was approved on December 1, 1975.

The SEIS will address the 14.1 mile unreconstructed portion of the route between the White Chuck River Bridge and the summit of Barlow Pass. It will include a wider range of alternatives than was considered in the original EIS. As currently proposed, the road is to be upgraded to a 24 foot paved width. There is concern that this scale of road will not adequately and safely accommodate future traffic including growing bicycle usage. Other options including a 28 foot wide alternative and alignment shifts near Monte Cristo Lake will now be considered.

In addition, environmental issues such as wetlands, cultural resources, wildlife, and impacts on segments of the Sauk River which are classified, or proposed to be classified under the Wild and Scenic Rivers Act, will be reexamined.

Initial public involvement and scoping activities have been conducted during the past year using public notices, newsletters, interagency meetings, and informal public meetings. More public meetings (June 10, 1990, in Lynnwood, Washington; June 13 in Darrington, Washington; and June 14 in Granite Falls, Washington) have been announced now that a supplemental EIS is going to be prepared.

To ensure that the full range of issues related to this proposed action are

addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the SEIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on May 25, 1990.

Scott Rustay,

Project Development Engineer, Western Federal Lands Highway Division.

[FR Doc. 90-12807 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 90-09-LVM, No. 1]

Fuel Economy Standards; Rejection of Petition by Officine Alfieri Maserati, S.p.A.

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Rejection of petition.

SUMMARY: This notice rejects a second petition from Officine Alfieri Maserati, S.p.A. (Maserati), to exempt that company from the generally applicable corporate average fuel economy standards for Model Years (MY) 1982 and 1983, and to establish alternative standards for that company for those model years.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366-0846.

SUPPLEMENTARY INFORMATION:

Background

Title V of the Motor Vehicle Information and Cost Savings Act (Cost Savings Act), 15 U.S.C. 2001 *et seq.*, provides for an automotive fuel economy regulatory program under which standards are established for the corporate average fuel economy (CAFE) of the annual production fleets of manufacturers of passenger automobiles and light trucks. The standard for passenger automobiles for MY 1982 was 24 miles per gallon (mpg) and for MY 1983 was 26 mpg. 49 CFR 531.5(a).

Section 502(c) of the Cost Savings Act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for the manufacturer at its maximum level. Under the Act, a low volume manufacturer is one that manufactures (worldwide) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year) and that manufactured fewer than 10,000 passenger automobiles in the second model year before the affected model year.

NHTSA has promulgated regulations establishing the required contents of and procedures for processing petitions for low volume exemptions from the generally applicable passenger automobile average fuel economy standards. 49 CFR part 525. Section 525.6(b) specifies that each petition for exemption must be filed "not later than 24 months before the beginning of the affected model year, unless good cause for later submission is shown. * * *" *See generally* 41 FR 53827, 53828 (December 9, 1976), and 44 FR 21061, 21065 (April 9, 1979).

Maserati filed a petition on May 3, 1983, requesting exemption from the generally applicable standards for MYs 1982 through 1985. On October 3, 1989 (54 FR 40665), NHTSA published a denial of petitions for alternative fuel economy standards from four low volume manufacturers, including Maserati. Maserati's petition for MYs 1982 and 9183 was denied because the manufacturer had failed to submit a timely petition for alternate standards for those model years and good cause was not shown for the late filing. The agency found, however, that Maserati had shown good cause for the late filing for MYs 1984 and 1985. A separate notice published the same day (54 FR 40689, October 3, 1989), proposed to grant the requested exemption for MYs 1984 and 1985, and to establish alternative standards for Maserati of 17.9 miles per gallon (mpg) for MY 1984 and 16.8 mpg for 1985. These alternative standards for Maserati for MYs 1984 and 1985 were made final in the Federal Register of April 4, 1990 (55 FR 12485).

The Petition

On October 31, 1989, Maserati filed a petition, which it characterized as a petition for reconsideration of the agency's denial, in which it requested that the "decision be reconsidered, reversed, and the petitions considered on their merits." The petition outlined the following as grounds for reconsideration, and as additional factors constituting "good cause" for the late filing of the May 1983 petition:

First, that since there was only one configuration of one Maserati model, namely the Quattroporte, sold in MYs 1982 and 1983, Maserati would have requested the same alternative standard whether it filed in a timely manner or late;

Second, that DeTomaso Industries (DTI), which was in the process of taking over Maserati during MYs 1982-1983, should be construed as a "new company;"

Third, that there was confusion over which of two Maserati importers was responsible for filing the petition for exemption; and

Fourth, that the fuel economy attained by the Quattroporte in MY 1980 was no predictor of the fuel economy attainable by the Quattroporte in MYs 1982 and 1983.

Rationale of Agency Decision

At the outset, the agency notes that its procedural rules do not contemplate a petition for reconsideration of an exemption petition denial. See generally 49 CFR part 525; compare with 49 CFR 553.35. Maserat's October 31, 1989 "petition for reconsideration" is therefore considered by this agency to be a new petition for MYs 1982 and 1983.

While the present petition was filed more than seven years after the beginning of the model years in question, from Maserati's perspective there was not reason to file it earlier, since Maserati presumably anticipated that its original 1983 petition would be granted. In other words, Maserati had "good cause" for the delay in filing this petition between May 1983 and October 1989. (We find that the current petition was filed promptly after Maserati became aware of the denial of its original petition.) Thus, although the agency could have properly rejected the current petition on the ground that Maserati should have submitted all of its reasons for its failure to file the original petition in a timely manner in 1983, we have decided to consider Maserati's recent assertions of "good cause" for its late filing as though the current petition had been filed in 1983.

Maserati's first argument appears to address more the significance of the lateness of the submission of the petition, than the existence of "good cause," if any, for the late submission. Maserati asserts that since in those model years, Maserati sold only one model, the Quattroporte, with only one engine configuration, Maserati could not have requested a different alternate

standard had the petition been submitted earlier. Due to financial constraints, Maserati was not in a position to offer any other engines or different models for those years. Maserati's point, therefore, appears to be that the time when Maserati's petition was submitted could not have had any bearing on its potential to improve its CAFE, and that therefore, no loss of fuel savings would result if the agency accepted the late petition. Maserati argues that the NHTSA determination that the 1982 and 1983 petitions were untimely and its consequent refusal to consider the petitions on the merits "amount to the placing of procedure over substance."

Maserati concedes that the petition was untimely with respect to both MYs 1982 and 1983. The issue which is determinative of whether NHTSA will accept a late petition is not, as Maserati seems to imply, whether there would have been an unfair advantage to the manufacturer if the agency accepted the late petition. Instead, the issue is whether there is "good cause" for the manufacturer's late filing.

For its second point, Maserati notes that in the past, NHTSA has recognized that "when a new automobile manufacturer enters the market, it may not have adequate time to file an exemption petition 24 months prior to a model year." Maserati states that this situation is analogous to that of DeTomaso Industries (DTI). Maserati asserts that DTI, which is currently the majority owner of Maserati, was in the process of obtaining control of the Maserati factory during model years 1982 and 1983, and obtained controlling interest in the company in 1983–1984. Maserati argues that:

> Under these circumstances, it is indeed accurate to say that DTI's takeover of Maserati was occurring during the time period that the 1982 and 1983 petition should have been filed and that this transition affected Maserati's ability to file in a timely fashion.

During this time period, Maserati continued to be in business, and except for MY 1981, when the company had financial difficulties, continued to sell products in the United States. Thus, regardless of who was the owner of the firm, Maserati retained control of data necessary to file the exemption petition. Nothing in this argument suggests an unanticipated event that made compliance with the deadline impossible. This agency has rejected a similar claim from Aston-Martin Lagonda for MYs 1986–1987 (see letter of March 25, 1987 from NHTSA to Aston-Martin Lagonda).

The situation faced by DeTomaso Industries is not a close analogy to that of a new company. In the case of a new manufacturer, there is no antecedent entity which could petition. Only a manufacturer can petition, and a manufacturer cannot petition until it exists. Albeit under different owners, Maserati existed before and after DeTomaso Industries took over.

Maserati's third contention is based on the claim that in 1980, it began using two independent U.S. importers, and that there was "confusion" over the division of responsibility between the two as far as CAFE matters were concerned during the time that a petition should have been filed for MYs 1982 and 1983.

Again, the fact remains that the company continued to exist as a manufacturer during these years. Any problem regarding importer repsonsibilities was resolvable within Maserati and was not unforseeable twenty-four months before the beginning of the model years in question. At the time the decision was made to use two importers for the United States, it should have been made clear which entity would have responsibility for handling CAFE petitions. Failure to take actions, such as assignment of responsibility, necessary to ensure compliance with law is not good cause for delay.

Maserati's fourth assertion of good cause is based on the statement that its second generation Quattroporte, introduced into the U.S. market in MY 1980, had its engine and exhaust configuration altered for MYs 1982 and 1983, increasing its fuel economy by 15% (on an unadjusted combined fuel economy basis). Maserati goes on to state:

> Given the foregoing, the fuel economy obtained by the 1980 Quattroporte was not predictive of 1982 and subsequent model year CAFE performance. NHTSA is incorrect when it states that Maserati "knew all the required technical information" for the Quattroporte 24 months in advance of the 1982 and 1983 model years.

Maserati was obviously aware throughout the entire relevant period that it would not achieve the industrywide fuel economy standards for MY 1982 (24 mpg) and MY 1983 (26 mpg). Thus, the fact that there were changes in its engine and exhaust configuration for the 1982 model year does not demonstrate good cause for the failure to file a timely petition for that year (or for MY 1982). At most, the modifications would provide a justification for a later amendment to an earlier petition. Moreover, since Maserati must have known of the plans to make the changes at least several months prior to the beginning of the 1982 model year, any such amendment should have been filed at least a year prior to May 1983.

Maserati has not suggested any basis, much less good cause, for this delay. Had they submitted a timely petition, in 1980, before the adjustments to the MY 1982 and 1983 Quattroportes were made, Maserati would have requested an alternate standard that would be lower than what was actually attained.

Maserati concludes that because of its "extremely small size and limited budget with respect to vehicle development and testing, the necessary supporting data for the exemption petitions with respect to the 1982 and 1983 model years was in fact not available to permit a timely and accurate filing." However, by definition, manufacturers that are eligible for low volume exemptions are small entities with similar constraints. This general difficulty in preparing a petition cannot provide the requisite good cause for filing in an untimely manner.

In sum, NHTSA has carefully considered the arguments presented by Maserati but has concluded, again, that Maserati has not shown "good cause" for its late filing of petitions for low volume exemptions for MYs 1982 and 1983.

(15 U.S.C. 2002; delegation of authority at 49 CFR 1.40 and 501.8)

Issued on: May 29, 1990.

Barry Felrice,

Associate Adminstrator for Rulemaking.

[FR Doc. 90-12808 Filed 6-1-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

May 25, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0021.
Form Number: CF 3499.
Type of Review: Extension.
Title: Application and Approval to Manipulate, Examine, Sample or Transfer Goods.
Description: Customs Form 3499 is used by importers or consignees as an application to request examination, sampling, repacking or the transfer of merchandise under Customs supervision; manipulation of merchandise in a bonded warehouse; and an application for abandonment or destruction of merchandise in bond.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 2,290.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 13,740 hours.
Clearance Officer: Dennis Dore, (202) 535–9267, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90–12798 Filed 6–1–90; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

May 25, 1990.

The Department of the Treasury has submitted the following public information collection requirements(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0458.
Form Number: IRS Form 4852.
Type of Review: Extension.
Title: Substitute for Form W–2, Wage and Tax Statement or Form W–2P, Statement for Recipients of Annuities, Pensions, Retired Pay, or IRA Payments.
Description: In the absence of a Form W–2, W–2C or W–2P from the employer or payor, Form 4852 is used by the taxpayer to estimate gross wages, annuities, pensions, retired pay or IRA payments received as well as income or FICA tax withheld during the year. It is attached to the return for processing as would a Form W–2, W–2C or W–2P.
Respondents: Individuals or Households.
Estimated Number of Responses: 1,300,000.
Estimated Burden Hours Per Respondent: 18 minutes.
Frequency of Response: On occasion and annually.
Estimated Total Reporting Burden: 390,000 hours.

OMB Number: 1545–0597.
Form Number: IRS Form 4598.
Type of Review: Extension.
Title: Form W–2, W–2P, or 1099 Not Received or Incorrect.
Description: Employers and payors are required to furnish Forms W–2, W–2P or 1099 to employees and other payees. This three-part form is necessary for the resolution of taxpayer complaints concerning the non-receipt of or incorrect Forms W–2, W–2P or 1099.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations.
Estimated Number of Responses: 850,000.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 212,500 hours.

OMB Number: 1545–0725.
Form Number: IRS Form 928.
Type of Review: Revision.
Title: Fuel Bond.
Description: Certain sellers of gasoline and diesel fuel may be required under section 4101 to post bond before they incur liability for gasoline and diesel fuel excise taxes imposed by sections 4081 and 4091. This form is used by taxpayers to give bond and provide other information required by Regulations § 28.4101–1.
Respondents: Individuals or households.
Estimated Number of Responses/ Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hrs., 39 min.
Learning about the law or the form—18 min.
Preparing, copying, assembling, and sending the form to IRS—21 min.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1,520 hours.

OMB Number: 1545–0997.
Form Number: IRS Form 1099–S.
Type of Review: Extension.
Title: Statement of Recipients of Proceeds From Real Estate Transactions.
Description: Form 1099–S is used by the person treated as the real estate reporting person to report proceeds from a real estate transaction to IRS.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Responses: 101,300.
Estimated Burden Hours Per Respondent: 7 minutes
Frequency of Response: Annually.
Estimated Total Reporting Burden: 480,000 hours.

OMB Number: 1545–1006.
Form Number: IRS Form 8633.
Type of Review: Revision.
Title: Application to Participate in 1991–1040 Optical Character Recognition (OCR) Project for Individual Income Tax Returns.
Description: Form 8633 will be filled in by tax preparers and software publishers and submitted to IRS as an application for filing and/or producing software for Form 1040–OCR pilot.
Respondents: Businesses or other for-profit.
Estimated Number of Responses: 3,000.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 750 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90-12799 Filed 6-1-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE ENERGY

Public Information Collection Requirements Submitted to OMB for Review

May 29, 1990.

The Department of Treasury has submitted the following public information collection requirements(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue, N.W, Washington, DC 20220.

Internal Revenue Service

OMB Number: New

Form Number: 6747 and 6747A

Type of Review: New Collection

Title: Order for Reproduction Proofs; Order Form for Advance Printed Copies of Tax Forms

Description: Forms 6747 and 6747A allow customers to obtain tax forms as soon as they are made available.

Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees

Estimated Number of Respondents: 1,342

Estimated Burden Hours Per Response: Form 6747—15 minutes
Form 6747A—3 minutes

Frequency of Response: Annually

Estimated Total Reporting Burden: 307 hours

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-12840 Filed 6-1-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1989 Rev., Supp. No. 20]

Heart of America Fire and Casualty Co.; Surety Companies Acceptable on Federal Bonds Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Heart of America Fire and Casualty Company of Kansas City, Missouri under the United States Code, title 31, sections 9304-9308, to qualify as an acceptable surety on Federal Bonds is hereby terminated effective this date.

The Company was last listed as an acceptable surety on Federal bonds at 54 FR 27812, June 30, 1989.

With respect to any bonds currently in force with Heart of America Fire and Casualty Company, bond-approving officers for the Government may let such bonds runt to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287-3971.

Dated: May 29, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller Financial Management Service.

[FR Doc. 90-12850 Filed 6-1-90; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Grants Program for Private, Non-Profit Organizations in Support of International Professional and Cultural Activities

The following announcement supersedes the one appearing in the Federal Register, volume 54, number 230 of Friday, December 1, 1989, pp. 49835-49836.

Summary

The Office of Citizen Exchanges (formerly known as the Office of Private Sector Programs) announces a program of grants to U.S. non-profit organizations for projects that link their international exchange interests with counterpart institutions/groups in other countries in ways supportive of the aims of the Bureau of Educational and Cultural Affairs. Interested applicants are urged to read the complete Federal Register announcement before addressing inquiries to the Office.

General Information

The Office of Citizen Exchanges of the United States Information Agency announces a program to encourage, through limited grants to non-profit institutions, increased private sector commitment to and involvement in international exchanges.

The Office is a networking instrument that seeks to link the international exchange interests of eligible U.S. private sector non-profit institutions and organized groups with their counterparts abroad, preferably on a long-term basis.

Projects must feature an international people-to-people component, have a professional and cultural focus, and make a substantial contribution to long-term communication and understanding between the United States and other countries.

The Office of Citizen Exchanges works with U.S. non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' cultural and artistic traditions; social, economic, and political structures; and international interests. The Office will give priority status to international projects involving leaders or potential leaders in various fields and professions, including leaders of cultural institutions, urban planners, jurists, specialized journalists (economic and cultural journalism, political analysis, international affairs), business professionals, parliamentarians and economic officials.

Since these programs focus on substantive issues of mutual interest, the Office of Citizen Exchanges strongly recommends the coordination of these activities with academic and/or cultural institutions. The projects it supports should be intellectual and cultural, not technical in nature. Each private sector activity must maintain a non-political character and shall represent in a balanced way the diversity of American political, social, and cultural life. Programs under the authority of the Bureau of Educational and Cultural Affairs shall maintain their scholarly integrity and meet the highest professional standards. The participation of respected universities and/or professional associations and other major cultural institutions is encouraged.

Proposals for projects taking place in the United States or overseas are welcome for topics that involve any area of the world. However, the Office would encourage those that involve

Africa, the Near East, South and Southeast Asia.

The Office does not support conferences, seminars, or symposia except insofar as they are integral parts of a larger project that meets the USIA objectives. In applications for funds to cover conference, seminar, or symposium costs as part of a larger project, proposals should include a detailed agenda, clearly identified speakers/presenters (and the professional/academic credentials thereof), and a careful explanation of the role of participants from other countries in the conference, seminar, or symposium. In such cases, the conference, seminar, or symposium costs, direct and indirect, should not exceed 25 percent of the total costs for conducting the entire project. Furthermore, USIA funds must be used primarily for participant travel and per diem expenses, not to defray administrative overhead. Prospective grant applicants should contact the Office of Citizen Exchanges for detailed conference, seminar, or symposium guidelines.

The participation of a respected university or scholarly organization in the conference, seminar, or symposium would, in most cases, be decidedly advantageous. Further, the themes addressed in such meetings must be of long-term importance rather than focused on current events or short-term issues. In every case, a substantial rationale must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution to the overall project the conference, seminar, or symposium will yield. No funding is available simply to send U.S. citizens to conferences, seminars, or symposia overseas; neither is funding available for bringing foreign nationals to routine professional meetings in the United States.

Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. USIS post consultation is strongly recommended for all programs.

Funding and Budget Requirements

The Office of Citizen Exchanges requires co-funding with grantees in all projects. Proposals with less than 33 percent cost-sharing must provide particularly strong justification even to receive consideration. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list other anticipated sources of support. Grant applications should demonstrate substantial financial and in-kind support using a multi-column format that clearly displays cost-sharing support of proposed projects. Following is an example of the required format.

Line item	USIA support	Cost sharing	Total
Travel, per diem, etc			
Total	$.....	$.....	$.....

Funding assistance for these discretionary grants is limited to participant travel and per diem requirements with modest contributions to defray administrative costs (salaries, benefits, other direct and indirect costs), which may not exceed 20 percent of the total funds requested. The grantee institution may wish to cost-share any of these expenses. USIA grant assistance is limited to $60,000 to organizations that have not received previous grant awards. In most cases, grant proposals may not exceed a limit of $200,000 in the amount requested from the USIA.

Additional Guidelines and Restrictions

Office of Citizen Exchanges grants are not ordinarily given to support projects whose focus is purely technical, to research projects, for professional training, for youth or youth-related activities, for publications funding, for student and/or teacher/faculty exchanges, for film festivals and exhibits. Competitions sponsored by other Bureau offices are announced in the **Federal Register**. Proposals focusing on technical aspects of science and technology should be referred to relevant Federal agencies for consideration.

Application Deadlines

The Office of Citizen Exchanges will accept proposals from the publication date of this notice through August 31, 1990, for projects whose activities will begin between January 1, 1991 and June 30, 1991. Institutions must submit ten copies of the final grant proposal. Project proposals must be received a minimum of four months in advance of the activity date and will be accepted for review only when they are fully in accord with Project Proposal Information Requirements (OMB #3116–0175). (See "Technical Requirements.") For projects that would begin after June 30, 1991, competition details will be announced in the **Federal Register** on or about December 1, 1990. Inquiries are welcome prior to submission of applications.

Technical Requirements

Proposals can only be accepted for review when they are fully in accord with Project Proposal Information Requirements (OMB #3116–0175) and include the following:

1. Bureau of Educational and Cultural Affairs Grant Application Cover Sheet (OMB #3116–0173).
2. Assurance of Compliance with U.S. Information Agency Regulations under title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and title IX of the Education Amendments of 1972 (OMB #3116–0191).
3. Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals.
4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Primary Covered and Lower Tier Covered Transactions, Forms IA–1279 and IA–1280.
5. Compliance with Office of Citizen Exchanges Additional Guidelines for Conferences (if applicable).
6. Compliance with Travel Guidelines for Organizations Inside and Outside Washington, DC (if and as applicable).
7. For proposals requesting $100,000 or more in grant monies, Certification for Contracts Grants and Cooperative Agreements, Form M/KG–13.
8. For proposals requesting $100,000 or more in grant monies, Disclosure of Lobbying Activities (OMB #0348–0046).

Additional Guidance

The Office of Citizen Exchanges offers the following additional guidance to prospective applicants:

1. As stated, the Office of Citizen Exchanges guidelines indicate that full and complete proposals must be submitted a minimum of four months prior to the start of a program. This is necessary for two reasons. First, the Office's Congressional mandate may often be best served when U.S. private sector organizations work with U.S. Information Service (USIS) posts in other countries in developing projects that build ongoing institutional linkages between foreign and U.S. institutions. Projects usually serve these ends best when USIS officers have reasonable time and opportunity to lay the groundwork for successful educational and cultural programming. Second, the review process for proposals submitted to USIA is multi-layered and time-consuming. The four-month minimum timeframe stipulated between the receipt of proposals and the date of the proposed activity is essential to enable complete review and adequate planning.
2. Projects supported by the Office of Citizen Exchanges are intended to support USIA goals abroad as well as to assist U.S. private sector organizations in their efforts to advance international understanding in areas identified as

important for bilateral relations. While the Office welcomes clearly defined projects in the wide gamut of U.S. private-sector fields, it gives preferential consideration to projects that involve USIS posts in the nomination of foreign participants with a view toward building ongoing institutional linkages between foreign and U.S. institutions. Applicants should be aware that proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and that pre-selected participants will also be subject to USIS post review.

3. The Office of Citizen Exchanges gives preferential consideration to proposals for activities in other countries when USIS posts are consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

4. Because of limited resources, the Office of Citizen Exchanges encourages project proposals involving more than one country. However, single-country projects that are clearly defined and possess the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome, provided they address the priority interests of the USIA.

For additional information and planning assistance, prospective applicants may wish to contact Dr. Raymond H. Harvey, Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street SW., Washington, DC 20547, or call (202) 619–5348.

Dated: May 24, 1990.

Stephen J. Schwartz,

Director, Office of Citizen Exchanges.

[FR Doc. 90–12777 Filed 6–1–90; 8:45 am]

BILLING CODE 8230–01–M

Book and Library Advisory Committee; Meeting

The United States Information Agency announces an open meeting of the Book and Library Advisory Committee Meeting June 13, 1990, 1 p.m.–4:30 p.m. in room 800, USIA Headquarters, 301 Fourth Street SW., Washington, DC.

The Agenda will include: Subcommittee Chairmen reports and Agency speakers who will update members on the activities of the Bureau of Educational and Cultural Affairs.

For additional information call Louise G. Wheeler or Patricia Gribben at 619–6089.

Copies of minutes can be obtained by calling 619–6089.

Dated: May 30, 1990.

Douglas Wertman,

Committee Management Officer.

[FR Doc. 12848 Filed 6–1–90; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 107
Monday June 4, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMISSION ON CIVIL RIGHTS

May 30, 1990.

DATE AND TIME: Thursday, June 7, 1990, 9:00 a.m.–5:00 p.m.

PLACE: U.S. Commission on Civil Rights, 1121 Vermont Avenue, NW., Room 512, Washington, DC 20425.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

I. Approved of Agenda
II. Approval of Minutes of May Meetings
III. Announcements
IV. Draft Summary Report on Campus Tensions
V. Draft Statement on Proposed Civil Rights Act of 1990
VI. Appointments to the California and Oklahoma Advisory Committees
VII. Staff Director's Report
VIII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 376–8312.

William J. Howard,

General Counsel.

[FR Doc. 90–12942 Filed 5–3–90; 11:13 am]

BILLING CODE 6335–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:02 p.m. on Tuesday, May 29, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Application of American Thrift and Loan Association, San Diego, California, an operating noninsured industrial bank, for Federal deposit insurance.

Administrative enforcement proceedings.

Matters relating to the probable failure of certain insured banks.

Matters relating to the Corporation's corporate and supervisory activities.

Application for consent to serve pursuant to section 19 of the Federal Deposit Insurance Act and request for waiver of a portion of section 308.101(b) of the Corporation's rules and regulations (name of individual and name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6) and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6) and (c)(8)).

Recommendation regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,564—Alliance Bank, Anchorage, Alaska

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: May 30, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90–12915 Filed 5–31–90; 9:48 am]

BILLING CODE 6714–01–M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 29, 1990, 55 FR 21822.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 30, 1990, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers and Companies have been added to Items CAG–1 and CAG–8 to the Agenda of May 30, 1990:

Item No., Docket No., and Company

CAG–1—RP88–115–000, Texas Gas Transmission Corporation

CAG–18—RP88–282–000, CP89–917–000 and TA89–1–28–000, Panhandle Eastern Pipe Line Company

Lois D. Cashell,

Secretary.

[FR Doc. 90–12939 Filed 5–31–90; 10:59 am]

BILLING CODE 6717–02–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 30, 1990.

TIME AND DATE: 10:00 a.m., Thursday, June 7, 1990.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open and Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In Open session the Commission will consider and act upon the following:

1. *Southern Ohio Coal Co.*, Docket No. WEVA 89–124–R. (Issues include whether the judge erred in finding a violation of 30 CFR 75.400 and whether the violation occurred as a result of the operator's unwarrantable failure.)

In Closed session the Commission will consider and act upon the following:

2. *Big Horn Calcium Company*, Docket No. WEST 89–377–RM, etc. (Consideration of a Petition for Interlocutory Review.)

It was determined by a unanimous vote of Commissioners that the second item be held in closed session.

Any person intending to attend the open portion of this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Sandra G. Farrow (202) 653–5629 / (202) 708–9300 for TDD Relay 1–800–877–8339 (Toll Free).

[FR Doc. 90–12920 Filed 5–31–90; 10:13 am]

BILLING CODE 6735–01–M

LEGAL SERVICES CORPORATION

TIME AND DATE: A meeting of the Presidential Search Committee will be held on June 11, 1990. The meeting will commence at 5 p.m. (e.d.t.).

PLACE: Conference call originating from the Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20024.

STATUS OF MEETING: The meeting has been closed subject to the recorded vote of a majority of the Board of Directors to discuss matters related to Presidential Search as authorized under The Government in the Sunshine Act (5 U.S.C. 552b(c) (2), (6), and (9)(B) and 45 CFR 1622.5 (a), (e), and (g)).

MATTERS TO BE CONSIDERED: 1. Matters related to Presidential Search.

(a) Review of resumes and Presidential questionnaires, and such other matters relating to the Presidential Search as may come before the Committee.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863–1839.

Date issued: May 31, 1990.

Maureen R. Bozell,

Corporation Secretary.

[FR Doc. 90–13016 Filed 5–31–90; 3:44 pm]

BILLING CODE 7050–01–M

RESOLUTION TRUST CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:54 p.m. on Tuesday, May 29, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to the resolution of certain failed thrift institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: May 30, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–12913 Filed 5–31–90; 9:48 am]

BILLING CODE 6714–01–M

RESOLUTION TRUST CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:40 p.m. on Tuesday, May 29, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider a matter regarding the Corporation's administrative activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: May 30, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–12914 Filed 5–31–90; 9:48 am]

BILLING CODE 6714–01–M

RESOLUTION TRUST CORPORATION

Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:33 p.m. on Wednesday, May 30, 1990, the Board of Directors of the Resolution Trust Corporation met in closed session to consider a matter relating to the resolution of a certain failed thrift institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: May 30, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–12988 Filed 5–31–90; 1:46 pm]

BILLING CODE 6714–01–M

Corrections

Federal Register
Vol. 55, No. 106
Monday, June 4, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TM90-6-32-001 and RP89-98-013]

Colorado Interstate Gas Co.; Compliance Filing

Correction

In notice document 90-12274 appearing on page 21780, in the issue of Tuesday, May 29, 1990 make the following correction:

On page 21780, in the second column, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90E-0091]

Determination of Regulatory Review Period for Purposes of Patent Extension; Dalgan®; Correction

Correction

In notice document 90-12140 appearing on page 21440 in the issue of Thursday, May 24, 1990, in the heading, the docket number should have appeared as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 251, 252, 255

[Docket No. R-90-1486; FR-2831-P-01]

Additional Review Requirements for HUD Coinsurance Programs

Correction

In proposed rule document 90-12243 beginning on page 21621, in the issue of Friday, May 25, 1990, make the following correction:

On page 21621, in the third column, under **DATES:**, "July 24, 1990." should read "June 25, 1990.".

BILLING CODE 1505-01-D

Reader Aids

Federal Register
Vol. 55, No. 107
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CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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LIST OF PUBLIC LAWS

Last List June 1, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 3910/Pub. L. 101-305

1992 National Assessment of Chapter 1 Act. (May 30, 1990; 104 Stat. 253; 7 pages) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$11.00	Jan. 1, 1990
3 (1989 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1990
4	16.00	Jan. 1, 1990
5 Parts:		
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700–1199	13.00	Jan. 1, 1990
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7 Parts:		
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100–499	7.50	July 1, 1989
500–899	26.00	July 1, 1989
900–1899	12.00	July 1, 1989
1900–1910 (§§ 1901.1 to 1910.441)	24.00	July 1, 1989
1910 (§§ 1910.1000 to end)	13.00	July 1, 1989
1911–1925	9.00	July 1, 1989
1926	11.00	July 1, 1989
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201–End	13.00	July 1, 1989

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61–399	6.50	Oct. 1, 1989
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CFR Index and Findings Aids	29.00	Jan. 1, 1989
Complete 1990 CFR set	620.00	1990
Microfiche CFR Edition:		
Complete set (one-time mailing)	115.00	1985
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Complete set (one-time mailing)	185.00	1987
Subscription (mailed as issued)	185.00	1988
Subscription (mailed as issued)	188.00	1989
Individual copies	2.00	1990

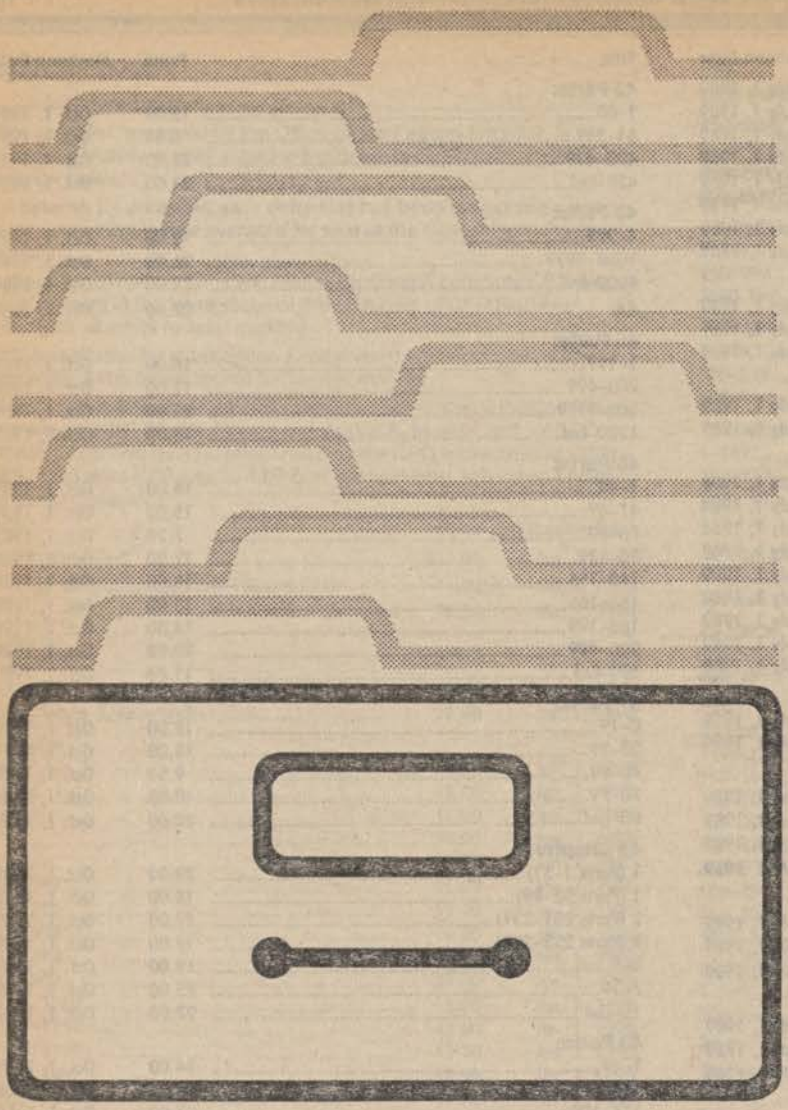
[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[3] No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 30, 1990. The CFR volume issued April 1, 1989, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1990

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

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